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THE SOLICITORS' JOURNAL.

LONDON, MARCH 2, 1861.

CURRENT TOPICS.

In addition to the Bankruptcy Bill and Criminal Law Consolidation Bills, of which people are pretty well tired by this time, there are now before Parliament a few less pretentious measures affecting the law. One is a Bill of Lord St. Leonards', to abolish the doctrine of implied or constructive notice. The Law of Property Bill, 1859, originally contained a clause to which the present Bill bears a strong resemblance, if, indeed, it was not intended to make them substantially identical. In the former Bill a purchaser or mortgagee was not to be bound by any other than *actual* notice of a charge. While that Bill was before Parliament we discussed this clause at considerable length,* with the view of showing the insurmountable difficulties which would attend any such enactment, especially having regard to the confusion and obscurity introduced into the authorities by the uncertain term "actual notice," and to the doctrines of courts of equity in respect of fraud. Lord St. Leonards now proposes, in place of enacting that a purchaser or mortgagee should not be bound by any other than actual notice, to enact that no purchaser or mortgagee shall be bound by any *implied* or *constructive* notice, unless the Court shall be of opinion that his conduct amounts to fraud. We shall take an early opportunity of offering some observations on this Bill, which, to our minds, so far from being free from the objections urged by us two years ago, is exposed to them even more than its forerunner.

Mr. Hodgkinson's Fictitious Defences Bill seems also to be very much open to exception. It proposes that in every action where a plaintiff makes an affidavit that the defendant is indebted to him in the sum mentioned in the writ, no defendant shall be at liberty *to enter an appearance*, unless he in reply makes an affidavit that he has "a good defence," or obtains leave from a judge, upon terms. Neither plaintiffs nor defendants, where they are unscrupulous persons, would have much difficulty in making such an affidavit, especially when it came to be regarded—as it would very soon—as little more than a formality; while the cases provided for by the Bill—where a judge would have to decide whether the defendant had really a legal or equitable defence—would, in fact, involve a preliminary hearing, and thus greatly increase expense, instead of diminishing it.

The Bill to afford facilities for the better ascertainment of the law of foreign countries when pleaded in our courts, is calculated to be very useful, and seems to have been carefully considered.

The Metropolitan and Provincial Law Association has had under its consideration the changes in the new Bankruptcy Bill relating to the taxation of costs in the provinces. Taxation by the country registrars, according to the present system, has been found to work most unsatisfactorily. Some of the registrars know very little about their work, and there is nothing like uniformity in their treatment of bills of costs. It has been proposed that, in order to secure one uniform method and scale, all bills of costs in bankruptcy should be taxed in London. This remedy, however, would be unquestionably worse than the disease. Taxation in London would involve either the presence here for that purpose of the country solicitor, or the attendance of an agent, who could not know much about the business done, and, therefore, could not give the taxing master the necessary information upon the items of the bill. We believe, that the Metropolitan and Provincial Law Association have proposed that two of the taxing masters to the court should periodically make a circuit, for the purpose of taxing bills. This appears to us to be the best plan yet suggested. What do our provincial readers think of it?

When Lord St. Leonards' Law of Property Act, 1860, was passed, a very important defect in it was pointed out in these columns. Our readers are aware that the statute does not do away with the necessity of registering judgments; while in order to give effect to them as against purchasers or mortgagees, it obliges the registration of writs of execution, which are enforceable only within three months after such registration. We desire now not to repeat the observations which we have already more than once made upon the general impolicy of this provision; but merely to call attention to the practical inconvenience of the mode prescribed for the registration of writs of execution. Judgments are registered in the names of defendants; but by Lord St. Leonards' Act of last session, it is enacted that executions are to be registered in the names of plaintiffs. Not only does a double search thus become necessary, but a double search of the widest range and most inconvenient character. A purchaser or mortgagee who desires to know whether an estate is affected under the provisions of the Act, by a judgment against John Styles, must first search the register of judgments against his name, and having thus obtained the names of all the plaintiffs who have registered judgments against him, is then compelled to search the register of executions not against the name of John Styles, but against the names of all the plaintiffs disclosed by the register of judgments. We are unable to suggest any reason for this cumbrous plan. The reasonable and obvious mode of registering executions would appear to be in the name of those parties only against whom the writs are issued. At all events, although this would not preclude the necessity of a double search for judgments and executions, it would at all events very much restrict the range of search, and make it much less expensive and bewildering than at present.

Two very important cases have been before the House of Lords, one of which has been partly heard, and the other of which has been decided, during the present week. In *Brook* v. *Brook* the appellants' counsel have not yet completed their somewhat hopeless attempt to upset the decision of Vice-Chancellor Stuart, assisted by Sir C. Cresswell, which was to the effect that a marriage between a man and his deceased wife's sister—both being English subjects and domiciled in England—although celebrated in a foreign country where the marriage was legal, is not valid in this country.

In the Berkeley peerage case, which has been before the House of Lords for two years past, their lordships delivered the judgment of the House on Wednesday last. It has been decided that the claimant, Sir M. F. F. Berkeley, is not entitled to the dignity of baron. The effect of the decision is, that according to the law of England there is no barony by tenure; or, in other words, no person can claim to be a peer of Parliament, and therefore to have, as of right, a writ of summons, as the tenant of any manor or hereditaments.

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* 3 Sol. Jour. 542.

NISI PRIUS GLEANINGS.

If any one doubts the value of trial by jury, let him ask himself, what other tribunal could fix the compensation due for wounded feelings and disappointed hopes with the same promptitude and confidence. We suspect that the contrivance of adding together the figures named by the individual jurymen and dividing the whole by twelve must be frequently adopted; and we own that in many cases we should be at a loss to improve upon this simple method. We feel the utility of an institution which disposes without thought of difficulties, which, upon deliberation, would begin to appear insuperable. Suppose, for example, that we allowed ourselves to ask upon what principle we would proceed to assess damages for a breach of promise to marry, we should find ourselves launched on a boundless ocean without chart or compass. There have been lately five reported cases of this kind in which verdicts have been given for £25, £40, £50, £75, and £100. In four out of these five cases we can, indeed, discern the glimmering of a principle—not, however, legal, or moral, or economical, but arithmetical. The round sum of £100, or the half, quarter, or three-fourths of it, are figures with which the mind of an ordinary juryman would be familiar. Even the abnormal £40 may be brought within the same category by the plausible conjecture that a strong party in the jury proposed £50, and an obstinate minority compelled a reduction of £10.

A foreigner visiting our courts would be equally astonished at the engagements of which he might hear the history, and at the issue of them. A courtship of five years, between Mr. Isaacs and Miss Myers, was terminated by the marriage of the former with Miss Moses. Miss Myers thereupon brought an action, and got £100 damages. At the time of the trial the plaintiff and defendant had reached the ages of 46 and 50 years. Those who cannot afford to marry not unfrequently engage themselves and wait several years until they can. This custom may be made intelligible to a foreigner, although the fullest explanation will leave him still contemplating it with surprise. But what foreigner, or, indeed, what Englishman, can understand the motive of the procrastination of a marriage seriously intended between parties of mature age, and to which circumstances offered no impediment? Mr. Isaacs possessed some property, and was in good business as a buyer of stores, and he had several children by a former wife. One would think that if there had been a serious purpose, it would have been accomplished long ago; and if there were not, the plaintiff could have no claim for damages. It was stated at the trial that the nation to which these litigants belonged do not often allow themselves to appear in such a ridiculous position. Indeed, although the case was sufficiently absurd, it wanted that usual source of laughter—the correspondence between the lovers. Perhaps Mr. Isaacs had been a dealer in stores too long to care about waste paper even in the form of love letters.

A hasty observer might conclude that the defendants in these actions must be men of irregular impulses and wayward character, whose habits of thought and action were as far as possible removed from those of sober, wary, money-getting citizens. Yet we have just parted from a Jew, who had reached middle life in an employment well adapted to sober the imagination and to fix the mind on the vanity of earthly things—that of a dealer in second-hand and worn-out articles of many kinds. The next defendant who presents himself is by nation a Scot and by trade a bagman—conditions equally unfavourable to the predominance of caprice or levity. It is, however, to be observed in both these cases, that the defendants may have acted as they did on the calculation that female society would, for the time, be pleasant, although marriage as the sequel of it might be either inconvenient or impossible. It appeared that the Scotchman had a wife and three children living in his native country. Being an exile in the extreme West of England, and using the Temperance Hotel at Falmouth as the centre around which he circled with his pack of draperies, he might have thought that his laborious and lonely life would be brightened by the kind looks and tender cares of the landlady of the aforesaid hotel. His habit was to stay at the house once a fortnight. It does not appear whether he paid his score; but it is certain that he took walks with the landlady, and went to chapel with her, and talked of what he should do as master of the house; and when he was on his rounds he wrote to her a great number of letters, from which it may be supposed he derived a pleasure second only to that of sitting with her in the bar—if there be a bar—of the temperance hotel or in the pew at chapel. He enjoyed all these conveniences and mitigations of the misery of expatriation for five years, and as the verdict against him was only for £25, he thus got a woman's confidence and affection, and possibly some abatement in his hotel bills, at the very moderate price of £5 a year. On the whole we are inclined to think that both the Scot and the Jew supported in these transactions their national characters for shrewdness and a keen regard for self. Their conduct may probably be explained on the universal principle of taking care of number one; and therefore it may be supposed that an observant foreigner would not find himself at a loss to understand the motive of it, by the help of his own experience of human life.

There have been, however, other recent cases, which we look upon as the peculiar growth of British soil. The plaintiff in one of them was the daughter of a builder's foreman and a laundress, dwelling in Morning-lane, Homerton. The girl assisted her mother in ironing the fine things. Up to the age of fourteen years, the plaintiff and the defendant had gone to the same school. We never heard before of education upon so broad a basis as to be capable of embracing the two sexes during almost the whole period over which it would extend. As may be observed in the majority of these cases, everything is proper, not to say precise, at the beginning of the courtship. The first step was, to ask the consent of the lady's parents. Matters were thus put upon the footing on which they continued for six years. The defendant was a copious letter-writer. His prose was neither accurate nor elegant; but then he gradually developed a considerable faculty for rhyming. He had got so far in the sixth year as to be able to produce a sonnet which demanded "a cottage on some Cambrian wild," wherein to lead a contemplative life. As his only means of keeping himself and "Susee" were by wages earned as shopman to a jeweller, and as that is a business not much in request on "Cambrian wilds," the lady's parents might have been justified in demanding some definite explanation of his intentions. It is to be feared, indeed, that as the intellect developed, the moral sense grew weak. The writer of sonnets ceased to feel the obligations of common honesty. Shortly afterwards he wrote that he had seen some one he liked better, and had no desire for the plaintiff's company either on the Cambrian wilds or in Coventry-street, Haymarket. The builder's foreman and the laundress may not have been sufficiently alive to the incompatibility of an intention

> "To pity man's pursuits and shun his ways"

with the maintenance of their daughter and the children who might be born to her in comfort and respectability. But the defendant's prose at any rate was not above the level of their understandings. He was called upon to fulfil his promise, and on his refusal an action was commenced and a verdict obtained for £40 damages, which we strongly suspect would have been £50, but that one of the jurymen had himself a half-developed yearning after a cottage on a Cambrian wild.

In another case tried in the same week we find not

only a poetical, but also a religious element entering largely into the correspondence. The parties dwelt on Bethnal-green. They were engaged three years and eight months, during which they spent usually five evenings of the week together, besides sitting in the same pew in chapel on the Sundays. In forming this connection, in carrying it on, and in breaking it off, the defendant appears to have supposed himself to be acting equally under Divine guidance, which he represented himself to have sought by earnest prayer. This appeal to a peculiar revelation where the ordinary teaching of man's own conscience might suffice recalls to our mind an incident in Venetian history, which may be found in a book lately published. The Pope had laid the Republic of Venice under an interdict, the effect of which was to close all the churches, and to deprive the people of all the offices of religion. The Council of Ten defied the Pope, and determined that the churches should be kept open by their own authority. On Saturday night, however, they felt very desirous to know whether the incumbent of an important church intended to obey their orders or the Pope's. An officer of the Ten accordingly waited on this incumbent to ask him whether it was his purpose to open his church for service on the Sunday morning. The incumbent cautiously answered that this would depend upon how he might be moved by the Spirit at the hour of divine service. A less astute body than the Ten might have been embarrassed by this evasion. They, however, were ready with the reply that nothing could be more proper than the determination of His Reverence to await the guidance of the Spirit in the matter of opening his church—only they thought it well to impart to him their own strong conviction that if the church were not opened the Spirit would move them to hang His Reverence from the steeple of it. We may leave our readers to apply this story to the defendant who broke his promise, and to the jury who punished him for the breach of it.

THE NEW COURTS AND OFFICES.

A pamphlet,* from the pen of a gentleman well-known to the profession, on a subject of very general interest, has just made its appearance. Every person who knows Mr. Gem regrets the retirement from the profession of one of its members so accomplished and esteemed as that gentleman; and all will gladly see each fresh proof (of what they could not doubt) that his interest in its welfare continues with him in his retirement. Mr. Gem's labours in the affairs of the law, and particularly on subjects cared for by solicitors, entitle everything proceeding from his pen to respectful attention. The masterly pamphlet he published nearly twenty years ago on the subject of Courts of Probate was the first practical move towards the abolition of those antiquated absurdities, the old Doctors Commons' Court and her sister Diocesan Courts, and of the race, half-monks half-lawyers, who had the monopoly of the probate business. His efforts in the Concentration of Courts question for nearly twenty years are also well known to all solicitors who have taken any part in that subject. But upon one point connected with this latter measure he has, while most wise and lucid on every other part, always been subject to what we consider a monomania. He is inflexibly convinced that the new courts should be placed in the garden of Lincoln's-inn-fields, and nowhere else in the world. He has always persistently advocated this view. He laid it before the late Commission. The commissioners considered his statement with full respect and attention; and reported against it. The pamphlet now under review is his rejoinder. In favour of Lincoln's-inn-fields there is, first, the saving of cost of site. This Mr. Gem computes at a principal sum, the interest of which would increase the annual rent to be paid by the public (or suitors) for the courts and offices by something less than £5,000 a year—an amount which all who have read the evidence before the commissioners; or, without reading, have considered how many millions are annually expended in court business, will be convinced is not worth a moment's consideration, provided the Incorporated Law Society's site (between Carey-street and the Strand) has the slightest breath of advantage in point of professional convenience. What, then, are the other comparative advantages claimed for Lincoln's-inn-fields?—greater quiet, more light, and less dust, and capacity for future enlargement. Noble position, better access, and the like we think hardly worth mentioning. How far are these claims true, and what are the real advantages of the other site? First, as to the validity of these claims. Except in the article of quiet, there is not only, we think, no validity, but, to a considerable extent, the balance is the other way; and quiet could only be retained in Lincoln's-inn-fields by keeping the fields more or less the inaccessible place for carriages than they are now, and taking care that there should not be those ready and almost essential approaches to the courts there, which, if granted, would be sure to make the fields a great thoroughfare from Temple-bar to Holborn. We will first describe the block of buildings we understand to be intended to be erected for courts and offices on the Strand site. This block would have a sunk basement area all round it, closed from the general public, wide enough for carriages or carts bringing records and documents to be deposited in court, and the like. There is a fall in the level of the ground between the north-east and south-west corners of the proposed area of, we believe, nearly fifteen feet. This difference of level would enable a carriage entrance to the area from the Strand to be readily made; and also would enable the architect to place under the ground floor two stories of rooms looking into the area, if two were desired. The entire centre of the building would, we conceive, be occupied, on the basement floor, with fire-proof rooms for records, lit by gas.

Mr. Gem says that there must be a further depository outside of, and detached from, the building, for records; and on the supposition of his Lincoln's-inn-fields' scheme, he proposes the purchase for this object of a site at the back of the west side of the fields. But in the Strand scheme, a site, and a very large one, and already appropriated to this object, is in existence, and with a much greater facility of approach. Make a tunnel from the north-east corner of the area, under Chancery-lane, and you would find yourself in the basement area of the magnificent new Record Offices on the Rolls estate, and have a perfectly private and safe communication between the new courts and the new depositories, and the Rolls house and the old depositories.

So far for the area of the new block of courts. The ground-floor of the new buildings would be devoted to offices: such offices being respectively placed under the respective courts to which they especially belonged. Over the offices, on the first floor, and running to the height of say eighteen or twenty feet, would be the courts, lighted by skylights. These courts would be so placed that between them and the streets surrounding the whole block of buildings, there would be two floors of rooms, lighted from the streets and shutting off all noise whatever from the courts. The lower of such two floors would be on the level of the courts; the upper, on the level of the galleries of such courts. These two floors would afford abundant private rooms for judges, the bar, &c. &c. There would be separate well staircases between the respective courts and the offices below them, to any extent that could be needed for all public or private access. And the offices on the ground-floor would again have power of expansion

* "Strictures on the Report of her Majesty's Commissioners for the Concentration of the Law Courts and Offices, and of their Recommendations as regards Site." By Harvey Gem.

by means of well staircases dropping down into those rooms in the basement underneath, which face and are lighted from the great area surrounding the building. In the centre of the block would be one or two open yards, accessible to carriages;—for the use of the judges, &c.; and for better ventilation, and for lighting other rooms, halls or passages to be placed, flanking the yards towards the interior of the block. These open yards would be approached by bridges from the streets, over the area.

It is of the first moment, we conceive, that the courts should be so placed as that, in point of proximity and readiness of access, they could be reached in a minute or two, without check or stoppage, by a barrister coming robed from the Temple. The position of the courts on the first floor would render this essential condition easy of attainment. A covered bridge over Fleet-street, running quite into the Temple (say one from the court immediately on the west side of Middle Temple-lane, or a bridge through the room over Temple Bar, or two or three bridges, if desired), could be carried into the heart of the new block of buildings, to the very doors of the courts themselves. A similar bridge from Lincoln's-inn New-square would also give quiet and uninterrupted access to the equity courts from that Inn. Another advantage of this first-floor position of the courts is that it admits of an unlimited extension of courts in after ages; for to extend them, nothing would have to be done but to purchase block after block of houses on the opposite side of the streets surrounding the building, and without impeding the traffic of those streets, carrying on by covered bridges the *congerie* of courts in any direction which might be thought desirable. The Rolls estate might in this way be so appropriated. Nay, the very Temple itself might be penetrated by this *congerie;* and fresh court after fresh court be protruded into its precincts,—should anything so improbable ever be wished. It is this power of making the two Temples wings or riders, as it were, of the courts, which renders the Strand site so incomparably more eligible than the one Mr. Gem patronises.

Mr. Gem's pamphlet rather smacks with an ill flavour of insinuation against the Incorporated Law Society, as if their chief motive in advocating the Strand site was to have the courts near their hall. Mr. Gem could never have intended any such inuendo. He himself might be subject to a retort, as a proprietor of valuable property in Lincoln's-inn-fields; but he is a most honourable and upright man, and has been a great knight-in-armour for all great law-improving enterprises; and willing battle will we ever do with any one who throws the faintest insinuation at him. The society's hall is placed where it is, precisely for the very reason why the courts should be placed where the commissioners propose. It is so placed because its site is between Lincoln's-inn and the Temple; and therefore in the very heart and centre of legal functions The fact that that noble institution will be *vis-à-vis* to the new courts is, moreover, a strong reason in favour of the chosen site, because the hall is very much to solicitors what the inns of court are to the bar.

If we may run near upon a Hibernicism, we will further say, in conclusion, that the best thing in Mr. Gem's pamphlet (good though it be, but in a bad cause) is one line upon the title-page. It is his motto from Bacon—a motto we cheerfully repeat, premising that usefulness, or adaptation to end, is the cardinal element of beauty. Upon its application, viz., whether it should be a warning to him or to us, we put ourselves (as the entries run) upon the country, &c.

"He that buildeth a fair house upon an ill seat committeth himself to prison."

ANDERSON'S CASE.

The obligation of England to deliver up Anderson to the United States must be decided by the treaty where its provisions are plain, and by principles of international law where the treaty is silent or doubtful.

The treaty is popularly considered as expressly declaring that the question of crime or no crime must be determined by the law of the place where the fugitive is found, as distinguished from the law of the place where the act complained of has been committed. This, to say the least, is a very extraordinary view for any reasonable man to take; for it involves the supposition that each country has stipulated for the delivery up of offenders against the laws of the other country—a stipulation which, it is plain, neither country had the slightest interest in making.

Independently of this, the construction alluded to cannot be supported.

1. Because the first part of the 10th clause of the treaty contemplates charges of crimes committed in the country demanding extradition.

2. Because what is a crime in such country can only be determined by the laws thereof, and the government of such country has no concern with offences against any other laws.

3. Because the treaty is framed for the mutual advantage of both countries, and its spirit is this:—Give us up certain offenders against *our* laws, and we will give you up similar offenders against *your* laws.

4. Because the proviso in the treaty applies in terms only to the evidence in support of the charge, and not to the criminality of the act alleged to have been committed; and that proviso is complied with by proving the law making the act complained of a crime in the country where it was committed, and by proving the commission of such act by the person accused.

5. Because to construe the proviso as applying to the question of crime or no crime is inconsistent both with the previous words of the treaty and with its general design; for such a construction leads to one of these two conclusions, viz., either, first, that the right to surrender exists wherever what is complained of is a crime (*i.e.*, one of the specified crimes) according to the law of the place where the fugitive is found; or, second, that the right to surrender exists only where what is complained of is a crime (*i.e.*, one of the specified crimes) both by the law of the country where the fugitive is found and also by the law of the country from which he has fled. The first conclusion proves too much; for it would render extradition obligatory, though no offence had been committed against the Government demanding extradition. The second conclusion proves too little; for it would not render extradition obligatory, even though a most heinous crime against the Government demanding extradition might have been committed. To make this clear, take the following case: Suppose that arrest for debt was lawful by the law of America, but not lawful by the law of England, and that an American subject were duly arrested in America for debt, and were to kill the officer arresting him, and were to flee to England—could it be said that because the law of England did not allow arrest for debt, therefore the American Government would not be entitled to demand the extradition of the fugitive? Such a conclusion is absurd, and demonstrates the unsoundness of the construction which leads to it.

For these reasons the question of crime or no crime cannot be decided by an appeal to the law of the place where the fugitive is found. By what law then is it to be determined? The treaty is silent on the point; and for the answer we must, therefore, appeal to the principles of international law and to the spirit and object of the treaty. Appealing to these, the question of crime or no crime must be determined by the laws of the place where the acts complained of were committed; and the only really debateable question upon the Ash-

burton treaty is this—whether it obliges each party to recognise all the laws of the other, or only such of them as may not be opposed to its own policy or interest, or to its own notions of right and wrong. Those who contend that the treaty binds each party to recognise all the laws of the other without any qualification or limitation, contend for that which, to say the least, is extremely improbable and unreasonable. Such a construction is apparently so opposed to the interests of both parties, that nothing short of the clearest expression of intention to that effect can warrant it; and were it not for the clause in the Ashburton treaty, enabling either party to determine the treaty without notice, the extensive construction alluded to could not for a moment be supported. But to infer from that clause that either party intended to abandon even for a moment the right to decline to enforce laws repugnant to its own interests and principles is to do much more than the clause warrants; such an intention, had it existed, would have been expressed in language not to be mistaken, and it cannot be fairly inferred from a provision inserted for the purpose of enabling either party to determine the treaty, in case it should think it expedient so to do. The treaty requires each party to recognise the criminal laws of the other; but in the absence of express words to that effect it cannot be fairly interpreted as requiring a more extensive recognition of penal laws than is required in the case of civil laws by what is called the comity of nations.

By the comity of nations, and in the absence of any treaty, one country is in the habit of recognizing those civil laws of another country which are not opposed to its own policy or interest, and are not abhorrent to its own notions of what is right. But the comity of nations does not go beyond that, and it necessarily leaves each country to judge for itself what laws of other countries it will recognise, and what it will not. The treaty does for a certain class of criminal laws what the comity of nations does for civil laws. Provided, then, we are bound to recognise by the comity of nations or by the treaty, the laws of the country where the act complained of has been committed, we must decide the question of crime or no crime by those laws. But if the act complained of is one which is a crime only by virtue of laws opposed to our policy and interest and to our notions of natural justice, then we are entitled to say the alleged crime is no crime, and the treaty does not apply.

Appealing, then, for the determination of Anderson's case to those laws of the United States which on general principles we can be required to recognise, we arrive at the conclusion that no case for extradition is made out; for, allowing the fullest force to the comity of nations, and to the treaty construed by its light, there is nothing to oblige us to recognise the status of slavery or those laws of other countries which treat slaves as things and not as persons. Such laws are opposed to our policy and to our notions of morality, and are abhorrent to our feelings. We hold that every person, in fact enslaved, is, whether in America or not, and whether black, white, or of any other colour, a free man detained in servitude against his will, and is entitled to gain his liberty by any means which may be necessary for that purpose. To treat Anderson as a murderer is, therefore, for us wholly impossible; and to deliver him up is more than the treaty requires us to do.

This mode of dealing with the case does no violence either to the words or to the spirit of the treaty, but gives full effect to both. The popular construction in this country is opposed both to the words of the treaty and to its spirit; and the American construction assumes that the treaty binds us to recognize all American laws, however opposed to our own policy or interest, or to our notions of right and wrong. The treaty, however, does no such thing; and assenting to the fullest extent to the general proposition that the question of crime or no crime must be decided by the laws of the place where the acts complained of were committed, we have a right to add that if we are required to give effect to those laws they must be such as we are bound to recognise by principles of international law.

PRELIMINARY AND INTERMEDIATE LAW EXAMINATION.

Some dissatisfaction has been expressed at the delay which has taken place in carrying out the provisions of the Attorneys' Act of last session, so far as they relate to the examination of articled clerks. The Act, which came into operation on the 28th of August, 1860, enables the chief judges of the common law courts, jointly with the Master of the Rolls, to make regulations for the examination "in such branches of general knowledge as they may deem proper of all persons not having taken degrees or successfully passed university examinations . . . thereafter becoming bound under articles of clerkship;" and the same judges may require such examinations to be passed either before persons so become bound, or before their admission as attorneys. It is rumoured that a considerable number of "ten years'" clerks have, since the passing of the Act, been making a rush into articles for the purpose of avoiding any preliminary examination which may be instituted; and unless it shall be determined to have no test in the nature of matriculation, all those who have obtained their articles since the passing of the Act will have escaped an ordeal to which, according to the opinion of Parliament, as interpreted by its nominees (the judges), they ought to have been subjected.

The Incorporated Law Society, however, although it has not been very prompt in taking measures for giving effect to the statute, has not been altogether idle in this matter. We have now before us the report of a committee appointed by the Society for the purpose of considering what steps ought to be taken towards the introduction of the new system. The report recommends that—

In order to carry into effect the enactment in the 8th section,

That from and after the first day of Term, 186 , every person proposing to enter into articles of clerkship for five years, shall produce to the registrar a certificate either that he has successfully passed the *junior* middle-class examination established by the Universities of Oxford or Cambridge, or taken a first-class in the examinations of the College of Preceptors, or has successfully passed an examination by special examiners in London, whom the committee further recommend that the Lords Chief Justices and Chief Baron, jointly with the Master of the Rolls, be requested to appoint, and that such last-mentioned examination take place half-yearly, and consist of two parts.

PART I.

1. Reading aloud a passage from some English author.
2. Writing from dictation.
3. English grammar.—Analysis and parsing.
4. Writing a short English composition, such as a description of a place; an account of some useful or natural product; or the like.
5. Arithmetic.—A competent knowledge of the first four rules, simple and compound and vulgar fractions.
6. Geography.—Questions on the geography of the world, but more particularly of Europe, and especially of the British Isles.
7. History.—Questions on the outlines of English history—*e.g.*, the successions of the sovereigns, the chief events, and some account of the leading men.
8. Book-keeping.

N.B.—The quality of the handwriting and the spelling in the several exercises throughout the examination to be taken into account.

PART II.

Papers also to be set in the following six subjects, and each candidate to be required to offer himself for examination in *two* subjects at least, of which Latin must be one, but no candidate to be examined in more than four.

1. Latin.—Translation of passages from Cæsar's Commentaries de Bello Gallico (Books I. & II.), or from Virgil's Æneid (I. & II.) Candidates to have liberty of choice between the two works.

2. Greek.—Translation of passages from St. John's Gospel, or from Xenophon's Anabasis (Book I.). Candidates to have liberty of choice between the two authors.

3. French.—Translation of passages from Fénélon's Télémaque: easy English sentences to be translated into French.

4. German.—Translation of passages from Schiller's Revolt of the Netherlands: easy English sentences to be translated into German.

Besides these translations in the several languages, the candidate to be required to answer questions on the grammar of each selected subject.

5. Mathematics.—Euclid, Books I. & II. Algebra, to simple equations, inclusive.

6. Physics.—The Elements of Natural Philosophy.

It will be observed that the examination here proposed is to be passed *before* entrance upon articles of clerkship, and is intended to satisfy the requirements of the statute in respect of "general knowledge" only; and so far we think that the committee has succeeded well in its task. The subjects proposed seem to us to be suitable for an entrance examination, and if any improvement can be made in this respect, no doubt a little experience will soon suggest it. But we are extremely glad to learn from the report that the committee has not hesitated to pronounce decidedly in favour of an entrance examination. The statute left that question quite open—the judges being, as we have seen, thereby empowered to fix the time of such examination in general knowledge *either* before or after admission to articles.

The 9th section of the Act provides for an examination in *legal* knowledge, pending articles; and in order to carry this into effect, the committee recommends—

That all persons under articles of clerkship executed after the passing of the Act on the 28th of August, 1860, shall be examined, either in the term next before or next after one-half of his term of service, in such elementary works of the laws of England as may be appointed by the examiners; and that the names of the books selected for examination in each year may be obtained from the Secretary of the Examiners in the month of the previous year.

That such intermediate examination shall be conducted in each term in the hall of the Incorporated Law Society, by the examiners appointed under the 6 & 7 Vict., c. 73, the orders of the Master of the Rolls of 13th January, 1844, and the rules of the Common Law Courts of Hilary Term, 1853, at such times as the examiners shall from time to time appoint.

The committee also suggests—

That in case the applicant should fail to pass such intermediate examination to the satisfaction of the examiners, he may attend the examination in the next or any subsequent term; but his examination at the expiration of the term of service under his articles shall be postponed for such length of time, or so many terms, as may intervene between his attempt to pass and his successfully passing such intermediate examination.

And that each person, on giving notice, shall pay a fee of 5s., and on receiving his certificate for such intermediate examination shall pay a fee of 15s.

We entirely agree with the committee in the suggestion that the intermediate examination should have express reference to, and, in fact, proceed upon, elementary text books; and would deprecate any attempt to anticipate the present too discursive and uncertain examination for admission into the profession. The report of the committee has intentionally not pronounced upon the exact period when such intermediate examination should take place—whether it should be before or after the expiration of one half of the term of service. Upon this point we venture to repeat a suggestion which we have already made in these columns. To our mind the best form of intermediate examination would be the professorial form, at least for those who attend lectures at the Law Institution. Every student who has attended two courses of lectures, in distinct departments of law, should be at liberty to present himself at the conclusion, for examination by the lecturers in the subjects of the lectures; and such attendance ought, we think, to be previous to the last year of service, so that there might be some guarantee that the student had not unduly postponed his studies. Such a scheme would not impose any very heavy additional duty upon the lecturers, or much irksome labour upon those articled clerks who now attend at the Law Institution: while it would do much towards securing advantages of which it cannot be supposed that the most is now made. Some provision would, of course, have to be made for the examination of those who do not avail themselves of the lectures in the hall of the Law Society. For them there might be either a separate examination; or there appears to be no reason why they might not be allowed to present themselves for examination by the lecturers. If students who had not attended the lectures could pass the same test as those who had, they would not, perhaps, deserve less credit for so doing, but rather the contrary. What we desire to insist upon mainly is, that the intermediate examination should have distinct reference to a specific *curriculum*, or course of study, and as much as possible to particular text books; and if to those which constitute the subject of the lectures so much the better.

In reference to the question whether the intermediate examination should take place not only in London, but also in convenient central localities in the country, we agree with the committee in thinking "that there would be very great difficulty in conducting the examinations in different parts of the country, and in applying an uniform test of progress." The committee is of opinion that under proper regulations the expense or peril will not be appreciably greater of attending for two or three days in town than in any central locality in the country; but upon this subject we shall be glad to be favoured with the views of our provincial readers.

THE MARQUIS OF BUTE'S CASE.

The Court of Chancery in England, and the Court of Session in Scotland, are fiercely contesting which shall have the custody of the Marquis of Bute—a boy, we believe, about thirteen years of age, enjoying an income, it is said, of £100,000 a-year, derived from land in both countries. On the death of his father, the late marquis, in 1848, his mother was appointed guardian of his person by the Vice-Chancellor Knight Bruce. The marchioness died in the autumn of 1859. At this period the young marquis was residing in his own beautiful island of Bute. The Vice-Chancellor Stuart was applied to, and appointed Major-General Stuart and Lady Elizabeth Moore to succeed the marchioness in the guardianship. At first these two selected individuals proceeded most harmoniously. Lady Elizabeth brought the marquis to London to be delivered to her colleague, who was supposed the fittest to superintend and direct the education of the young nobleman. The major-general, it appears, intended to enter him forthwith at Eton. The Vice-Chancellor Stuart approved of this arrangement; but Lady Elizabeth Moore was of opinion that some preliminary training would be proper, as the boy was delicate and a little backward in his attainments. She had been a great friend of the late marchioness; and evidently had a very strong attachment to her charge. In these circumstances no other way occurred to her to save her own terrors and to comply, as she said, with the child's entreaties, but the obvious though bold course of starting with the marquis by a night train, and thus restoring him to the land of his birth, and as it appears of his affections. Here undoubtedly was a contempt of the Court of Chancery; a very great offence in the judgment of all at Lincoln's-inn—but perhaps a not very unnatural proceeding in the eyes of the world at

large. Once in Scotland, the marquis and Lady Elizabeth thought themselves safe. But the major-general pursued them. Foiled in his efforts to get back the child, the worthy soldier complained to the Vice-Chancellor Stuart, who, being himself a Caledonian, felt that he owed a double allegiance—to the laws of his dear native country on the one hand, and to the laws of England, which he had sworn to vindicate, on the other. Duty prevailed in the mind of this eminent magistrate; and we understand he has not failed in asserting and carrying to their full extent the principles on which his Court acts, in that important branch of its jurisdiction which embraces the care of those who cannot take care of themselves. In a word, the Vice-Chancellor discharged Lady Elizabeth Moore from the guardianship; ordered her to surrender the child to the major-general, who was continued in the guardianship; and finally directed that, if necessary, an application should be made to the courts in Scotland for assistance. Lady Elizabeth Moore refused to deliver up the child. The Court of Session was then applied to: but that Court demurred, stood on its own dignity, and doubted whether it was befitting that a supreme tribunal should "register the decree of a foreign jurisdiction" without "examining its propriety." A difficulty presented itself. The order of the Vice-Chancellor was not so authenticated as to make it necessary for a court of justice to second it without paying some attention to the circumstances of the case, and some regard also to the feelings of the young marquis. The Court of Session declined compliance with the major-general's application, the more decidedly because there was in Scotland a proper functionary duly authorised to protect the marquis's person, the "Tutor-at-law;" who had, in fact, been appointed to his office *before* the appointment of the English guardians, and when the pupil (so the Scotch lawyers term a boy under 14) was actually resident in Scotland. The result is that this young scion of a most ancient Scotch noble family (descended from Celtic kings) is still in Scotland. Leave has been granted to appeal to the House of Lords against the order of the Court of Session, and this appeal will soon be heard. The case of *Beattie* v. *Johnstone*, 10 Cla. & Finn. 42, comes very near the Bute case, and will, no doubt, influence the decision of the House of Lords in the pending appeal. Meanwhile we must content ourselves with thus noticing the issue raised, without entering upon the merits of any argument on either side.

THE DEED CLAUSES OF THE BANKRUPTCY BILL.

This Bill goes buoyantly through the troubled waters of committee. The Attorney-General is reaping the reward of the months of long-vacation labour, which, notwithstanding last year's Bill was a consolidation, and this year's is only an amendment, he informed the House that he had bestowed upon the present measure. But no amount even of the Attorney's skilful exertions in fitting the details together will avail to secure a practically successful result, unless all the main features of the new system be in harmony with the principle which has been its ground of introduction. This ground has been so well understood, and so fully recognised throughout the agitation for the reconstruction of the Bankruptcy Law, that it was scarcely necessary for the Attorney-General to tell his hearers, on moving for leave to bring in the Bill, that the principle on which he thought the law of insolvency should rest was this—that the moment a man becomes insolvent his estate belongs to his creditors, and that the creditors, as a body, should be consulted upon the mode of administering it and disposing of it. Under the old system a whole legion of officials were employed in destroying the very property which it was their sacred province and duty to respect; and this was one of the evils which it was the object of both the last and present Bills to remove. The Attorney-General might have declared it to be the one object. The complaint is not that the bankruptcy law, as law, is badly administered, or works injustice either to the debtor or the creditor; but that in administering the law thirty-three per cent. is levied on estates for the purpose of paying compensations and supporting the expenses of the Court. Accordingly, the attempt which failed last session of throwing £20,000 a year of compensation on the Consolidated Fund has now been renewed with success against Sir H. Willoughby's opposition.

Such is one mode by which the 33 per cent. is to be lightened. But for reduction of the heavy percentage the main reliance is placed on the increased power to be given to the creditors' assignee and the creditors themselves, in administering the bankruptcy. If a majority in value at any meeting thinks that a proposal of the bankrupt should be accepted, or that no further proceedings should be taken, there is to be an adjournment; and, upon a resolution of three-fourths in value present at the adjourned meeting, the bankruptcy proceedings are to be suspended, and the estate is to be wound up as the majority shall direct. On the election of a creditors' assignee, the powers of the official assignee are to cease, and the estate is to be divested out of him, and vested in the other assignee; and the creditors at the meeting will be at liberty to appoint a manager of the estate, and determine upon his remuneration. The creditors' assignee is to realize the estate, and make the requisite payments into the bank, upon a resolution of three-fourths in value of the creditors at a meeting. He is to have a power of mortgaging and pledging the estate to pay debts owing by the bankrupt; and, after twelve months, he may sell the book debts and goodwill. Creditors will be enabled to prove by delivering, or sending by post, a statement of account to the creditors' assignee, accompanied with a declaration.

It will have struck the reader that, so far, the new system will in effect approach very nearly the state of things under a composition deed. And later in the Bill come, not unexpectedly, provisions from which the Attorney-General expects special advantage to the estate. He declared in the House that an evil of the present law is, that when once the creditors are within the walls of the court, they cannot escape until the estate is administered to the uttermost farthing. They are compelled to remain there until the whole is "ground down and administered." Accordingly, in the Bill, under a heading "As to change from bankruptcy to arrangement," are clauses by which, at the first meeting after adjudication, or any meeting called for the purpose, three-fourths in value of the creditors may resolve that the estate ought to be wound up under a composition deed, and that an application should be made to the Court to stay the bankruptcy proceedings. The registrar will report the resolution to the Court, which will have power to order accordingly, and to give directions for the interim management of the estate. During the stay of the proceedings, a deed of arrangement, signed by three-fourths in value of the creditors, will be produced in the Court, and the Court, after such a hearing and inquiry as may be necessary, will, if satisfied, direct the deed to be registered with the Chief Registrar, and, if *he* thinks fit, will annul the bankruptcy. The registered deed will bind all the creditors.

So far the Bill no doubt does give effect to the cardinal principle that the estate ought actually, as well as theoretically, to belong to the creditors, and, therefore, to be kept as much as possible out of the reach of the "pickers and stealers" of the legion of officials. As regards the above provisions, nothing, it is admitted, can have a more wholesome tendency. Not only would they allay the instinctive dread which creditors have of Basinghall-street and its branches, but they are also in accordance with the teaching of experience in the winding up of the estates of persons unable to meet

their engagements. Upon an examination of statistical details, in the year 1858, and for some years previously, it appears that the number of adjudications was to the number of composition deeds in a ratio of not more than one to seven. In 1858 the numbers were 660 and 8,000. This session the Attorney-General stated the proportion at 1,000 to about 10,000.

Now, inasmuch as any one creditor of a sufficient amount can drive an insolvent trader into the Court of Bankruptcy, the inevitable conclusion from these statistics is, that in at least six out of every seven cases no Bankruptcy Court or official tribunal beyond the ordinary law and equity courts is wanted at all. And when we consider how many estates, which some early circumstance in the bankruptcy forces into the court, would afterwards, if they could, come out from it to escape being "ground down and administered" there, we may fairly divide the whole number of insolvent cases into the relative numbers of one requiring official interference and nine that prefer to dispense with it. The object, therefore, of any system of administration of bankrupt estates, where the professed policy is to allow the creditors to manage the affair themselves, when they are able, ought to be to provide for the one-tenth and leave the nine-tenths free. Any interference with the nine-tenths, whether for the advantage of the one-tenth, or for the benefit of the nine-tenths, must from the nature of the case do a great deal more harm than good. Yet this Bill, when it has liberated the estate, on the execution of a composition deed, detains in the vestibule, as it were, of the court, the deed and all the persons concerned. The Court is still to have jurisdiction to entertain any application of the bankrupt, or of any party to the deed, or of any creditor or person claiming to be one, respecting the winding up of the estate, or the execution of the provisions of the deed, or the trustees' accounts, or the taxation of the costs or charges of any person employed under the deed, or generally for the decision of any question. And for these purposes the Court is to have the usual powers of summons and examination, and compelling production of books and documents. It is easy to foresee what will be the consequence of this facility of application to the court. There will be no more confidence or reliance placed in the trustees and their legal advisers than there will be responsibility felt by them. The deed instead of being regarded as a final arrangement to be worked out in its own strength, with mutual concession and forbearance, will be regarded by every disappointed, choleric, crochety, or self-interested creditor or agent as a technical introduction to a *locus standi* in the court. At present questions upon such a deed are litigated in the ordinary courts of law and equity, and doubtless, there is an occasional break down, and a heavy expense. But that such an event does not so often occur as to interfere generally with the efficacy of the arrangements made, is best proved by the great number of the cases in which such arrangements are adopted. Under the proposed system, the estate will certainly not be eaten up by any large mouthfuls; but will it not be gradually nibbled away? We are at a loss to conceive how the Attorney-General will justify these provisions for enabling the debtor or creditor or any other party involved to "pass over the boundary" (as the Attorney-General expressed it), which he has set for himself in assenting to the deed. Has it ever been heard that creditors who agree to settle their bankrupt's affairs out of court have raised or taken up the outcry against the bankruptcy law, as a law which injuriously excludes them from the jurisdiction and protection of the Court?

All, however, that has been said above, respecting change from bankruptcy to arrangement is trifling, when compared with what follows. Indeed, it might be plausibly argued that a matter once in the court ought ever after to be held with the official tether. Perhaps, too, the instances of such change are not very numerous. The great infraction which this Bill makes of the principle of the proposed reform, and to which we would chiefly draw attention, is that the new bankruptcy Scylla will suck in the whole of the hitherto free 10,000 deeds of arrangement, apparently for no useful purpose in reality, unless to cast them up again—

"Vorat hæc raptas, revomitque carinas."

Under the trust deed clauses, every instrument between a debtor and his creditors or a trustee, relating to the debts or liabilities, and the debtor's release, and the distribution, winding up, and management of his estate, or any of such matters, must not only be left, with an affidavit of execution and a statement of the property and credits, at the chief registrar's office, for execution, and the particulars of the instrument be entered in a book, and the instrument itself be registered in the Court of Bankruptcy; but, after the registration, the instrument, and the debtor creditors and trustees will, in all matters relating to the estate and effects, be subject to the jurisdiction of the court, and be liable to all the provisions of the Act, in the same manner as if the debtor had been adjudged a bankrupt, and the creditors had proved, and the trustees had been appointed creditors' assignees under the bankruptcy. Further, the trustees and the creditors will, as between themselves, and as between themselves and the debtor, and against third persons, have the same powers, rights, and remedies as may be exercised by assignees or creditors with respect to the bankrupt or his estate in bankruptcy. Were these clauses expected to be worked according to their overt intent and meaning, the carrying out an arrangement by deed would be nothing more than a judicial bankruptcy administration under the general law, modified by and perhaps entangled with the self-imposed law of the provisions of the instrument. We will not do such injustice to the intellect of the Attorney-General as to suppose that he has committed the elaborate blunder of contemplating such a result. This is not a case of blunder, but of something else less abhorred in public affairs. The real motive for dragging trust deeds into the bankruptcy vortex is financial. The Bankruptcy Court, being itself almost bankrupt, is to be relieved in two ways—first, by the aid of the Consolidated Fund; secondly, by a tax on all insolvent estates—the last subject, one would think, capable of bearing the burden. Because it is necessary that in insolvencies where fraud, *mala fides*, or criminality is suspected, or where personal rancour or obstinacy becomes indomitable, or the magnitude of the crash is appalling, recourse should be had to a half-ruined court; therefore, to avert entire ruin, everything, however innocent, trustworthy, and facile, that has the odour of bankruptcy, must pay tribute to this court. For no instrument of arrangement is to be registered, or therefore to bind the creditors, unless, in addition to the ordinary stamp, it has a stamp computed according to the following rule—that is, £2 for an estate under £500; £5 under £2,000; £10 above £2,000. Taking the moderate average of £4, the revenue derivable to bolster up bankruptcy finance will be the nice total of £40,000 a-year—no, not the total, for there will still be the official bone-picking, if any of the parties concerned are weak or wayward enough to call into play the new protecting jurisdiction.

We protest, then, against this dexterous attempt to raise out of the great majority of insolvencies, which require no official assistance, a fund to keep Basinghall-street in heart, while experiments are being tried upon its constitution for the benefit of the small minority. Not only will the proposed deed clauses of the Bill, in their administrative operation, be a flagrant breach of the sound principle of bankruptcy law, and of the avowed principle of the present measure, but in accomplishing their fiscal purpose, they will work a great injustice. The financial difficulty of the Bankruptcy Court must, if the present fees and other good things

are to be cut down, be met by the House of Commons in an honest spirit. We willingly acknowledge the Attorney-General's difficulty. He has various interests to conciliate. But nothing can justify him in promoting legislation that will bring transactions into her Majesty's Court of Bankruptcy for the purpose of swelling its income—legislation which, by its socialistic indulgence on the one hand, and its tyrannical coerciveness on the other, is no less debasing than oppressive to the subject.

The English Law of Domicil.

(By Oliver Stephen Round, Esq., of Lincoln's-inn, *Barrister-at-law.*)

VII.

Of Domicil of Origin.

The chief difficulty which occurs in the divisions of the subject of domicil arises from the manner in which every part of it is mingled with the other; all that can, therefore, be done is, to make that portion of it under discussion the prominent feature, and all the others that necessarily arise in immediate connexion with it subservient and conducive only to illustrate and bring it forward. I look upon domicil of origin and birth to be identical, because no man's legal history can be carried back further than his birth; and the domicil of origin must be coeval with that period, for it is the first he has, and which he must have immediately upon his birth; for even if he happens to be born on shipboard, or on a journey, the moment he comes into existence, his father's domicil becomes his, but if his father be not then living that of his mother. Vide *Somerville* v. *Somerville*, 5 Ves. 750. The only real distinction is, as to the place of birth. *Reg.* v. *Sutton under Brailes*, 25 L. J. M. C. 57. An illegitimate child can, of course, have no father, legally speaking, and, therefore, cannot follow the domicil of its natural father; but as the mother is certain in spite of the rule, *hares neminis* so far as his domicil of origin is concerned it would be the domicil of the mother.

The French law differs considerably from ours in this respect; for although a child may be born of a single woman, yet if she afterwards marries the natural father, it is possible to render it legitimate by certain forms to be gone through; for the law of France recognizes the possibility, or rather assumes the existence of an inchoate contract to marry the party at the time of conception. Supposing there be, then, no legal impediment to such marriage, and therefore, if the father or mother at that period be in such a condition that they cannot legally marry, the child then conceived cannot afterwards be legitimatized.

It has been considered that a domicil of origin and birth may be distinct, but it is very difficult to explain wherein this distinction lies, and at all events, when events make it at last obligatory to refer to the first domicil, it matters very little what we denominate it, whether we call it domicil of origin, or domicil of birth. *Patris originem unusquisque sequuntur.* Cod. lit. 10; tit. 31; l. 36. *Code Civile, Art.* 76.

With respect to the question of legitimacy, domicil is a very important matter in the case of individuals who acquire property in a country not that of their birth, and die intestate and unmarried seised of such property. Thus the laws of France and of Scotland legitimatize individuals not born in lawful wedlock, who, according to our acceptation of the term, would be bastards or illegitimate. In the first case this is done by means of certain "acts," as they are called, and in the second by the mere fact of the parents subsequently marrying: According to the laws of these two countries, an *ante natus* is to all intents, and for all purposes rendered legitimate, and amongst the rest, of course, in relation to the title to property, either purchased by him, or coming from him, and is in fact on the same footing as *post nati*, if there be any. Nay more, the laws of this country recognise the legitimacy of an *ante natus*, and he is indeed regarded as legitimate all over the world, personally, although the laws in force in England as to the transmission of real estate remain in force as much against him as against any other person born in England of English parents not in lawful wedlock. This is one of the great causes of incapacity to inherit, and no statute which has at present passed has, that I am aware of, in the least altered the general law upon the subject. Thus when a party is designated as "heir," "issue," "ancestor," or any other relation, it must be taken, I apprehend, to mean according to the law of England.

A recent case upon this subject *In re Don's Estate*, 5 W. R. 836, fully illustrates this. David Don, a bachelor and a native of and domiciled in Scotland, cohabited with Elizabeth Hogg, a spinster, and also a native of and domiciled in Scotland; and a son was born of that connexion. In the course of the next year, the parents married, whereby, according to the law of Scotland, the son, who was named David Don, was rendered legitimate. Years rolled on, and David Don the younger, having come to man's estate, left Scotland, and settled in England at Newcastle-upon-Tyne, where he purchased real estate, being land with erections upon it, and part of a street in the town, and, being so possessed, and for aught that appeared to the contrary domiciled in England, died intestate and unmarried. David Don the elder, upon the assumption that David Don the younger was his legitimate son, not only according to the law of Scotland but also of England, entered into and possessed such real estate, and continued in possession until the Corporation of Newcastle-upon-Tyne, under the powers of an Act for the improvement of the town, took the land compulsorily. Upon the investigation of the title the dates of birth and marriage of course disclosed the true state of affairs, and the important fact came out that David Don the younger was legitimatized only, and, therefore, according both to the Scotch and English law, not, previously to the marriage of his parents, legitimate, although rendered so by the law of Scotland, and so far a domiciled Scotchman until he was capable of gaining a domicil of selection. The only mode in which David Don the elder could make out his claim was under the modern English law of inheritance, whereby the father is heir to the son, on the ascending principle; and therefore his title rested on the ground that David Don the younger was his "issue;" but the title being thus considered very questionable, the Corporation of Newcastle paid the purchase-money into court under the provisions of the Lands Clauses Consolidation Act, and upon the usual petition by the landowner for payment out of court, (in this instance David Don the elder being petitioner) the question was fully discussed. On his behalf it was admitted that he had no title except under the Inheritance Act, 6 & 7 Wm. 4, c. 108, s. 6, but that inasmuch as that Act spoke generally of the "lineal ancestor inheriting from his issue," which David Don the younger undoubtedly was, being recognised as legitimate both by this country and by the law of Scotland, whether he was a domiciled Scotchman or not, it followed that David Don the elder could make a good title to the land. On the other hand, it was contended on behalf of the Crown, that the term "issue" meant "issue capable of inheriting according to law," and that therefore, David Don the elder could not be heir to David Don the younger, because although recognised as legitimate for general purposes, he was not so legitimate as that any one could inherit land from him, except his own issue. After a lengthened argument, and judgment reserved, Vice-Chancellor Kindersley, before whom the petition was heard, decided that the petitioner was not entitled to the money representing the land. This

learned judge, distinguished alike for the untiring patience as well as for the sound discretion which he extends to every point brought for his decision, entered most elaborately into the consideration of the analogy of the English and Scotch law, and held that, although beyond all doubt in Scotland, an *anti natus*, born of parents domiciled in Scotland, was rendered by the subsequent marriage of those parents legitimate not only in Scotland but all over the world, still he was legitimate only as to his personal *status*, and not recognised as capable of inheriting real estate in England, nor, as a necessary consequence, could the converse right of land being inherited from him hold good. This was his Honour's view of the question, irrespective of the Inheritance Act, and he was further of opinion that, under that statute the rights were not altered; and the word "issue" meant "issue capable of inheriting according to law." The domicil of all parties was assumed to be in Scotland, and it was not necessary to consider the questions that might have arisen had the domicils been different, and hence the fact of David Don the younger having acquired an English domicil (if he did so) was not discussed. The case was a perfectly new one, and, as might be supposed, every possible authority was brought to bear that could be discovered, into many of which the question of domicil largely entered, and, *inter alia*, an old brief and proceedings in a suit of *Read* v. *Keith* were produced which had been before his Honour when master, the present production of which caused him (as he said) considerable embarrassment In that case, a Scotchman had emigrated to America, cohabited with a woman, by whom he had two daughters, and afterwards married her, possessed some 200 acres of land in America, where he acquired a domicil, and died there intestate. The land was claimed by the daughters as legitimatized by the subsequent act of marriage; and the question being raised before the master, he had thought them entitled to the land, upon the ground that they were rendered legitimate according to the Scotch law by their parents' subsequent marriage. It did not appear that that decision had ever been called in question, and therefore, certainly, so far, it was an authority. In referring to the production of this case, his Honour said that considering it was the mere decision of a master, (more particularly when it was considered that that master was himself,) he had no hesitation in declaring that it was a wrong decision, and the circumstance of the case did not vary the principle upon which all such cases must go, namely the *lex locis rei sitæ*.

(*To be Continued*).

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

SECOND COURT.

(Sittings at Nisi Prius, at Guildhall, before Mr. Justice BLACKBURN and Special Juries.)

Feb. 26.—*Special Jurors.*—As soon as the judge took his seat there was a general clamour made by the special jury who had been summoned in the case of *Peyton* v. *Baxendale*, which had been second in the list for this court on the previous day. They said they went away yesterday under the expectation that this case would have been first in the list for this court this morning, but upon coming here they found that another case was put before it; they had been in attendance several days, and it was a very great grievance that gentlemen should be brought from their homes or their business in this manner.

The JUDGE said he was very sorry for them. He had not anything to do with making out the lists, but he had no doubt there were very good reasons for the list being made out as it was. He must take the list as he found it.

The special jurors having again complained,

The JUDGE said it was matter entirely for the Legislature; the Jury Acts might be remodelled. If the special jurors would cause their grievance, if they knew what it was, to be laid before the Legislature, every one connected with the law would be pleased if they could have a remedy.

COURT OF PROBATE.

Feb. 26.—At the sitting of this court Mr. Coleridge, upon his lordship's invitation, took his seat within the bar as one of her Majesty's counsel.

SPRING ASSIZES—NORTHERN CIRCUIT.

CARLISLE.

The commission was opened in this town on the 21st ult.

NEWCASTLE.

Mr. Justice Hill and Mr. Justice Keating opened the commission in this town on the 27th ult.

HOME CIRCUIT.

HERTFORD.

The commission for this county was opened on the 28th ult. by Mr. Justice Wightman.

MIDLAND CIRCUIT.

OAKHAM.

Mr. Justice Crompton arrived in this town on the 26th ult. and opened the commission. There were only two criminal cases for trial, and there was no business on the civil side; and the Court rose about 12 o'clock on the 27th.

CENTRAL CRIMINAL COURT.

Feb. 24.—The February session of the above court commenced to-day before the Right Hon. W. Cubitt, M.P., Lord Mayor of the city of London; Mr. Russell Gurney, Q.C., the recorder; Alderman Sir F. G. Moon, Alderman Finnis, Alderman Challis, and Alderman Rose; Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, and Mr. Under-Sheriff Eagleton.

The number of cases for trial were very large.

Mr. George Augustus Bragg, of Moretonhampstead, Devon, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Mr. Zachariah Mellor, of Rochdale, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Thomas Wheeler, of the Middle Temple, LL.D., has been called to the degree of a serjeant-at-law.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, Feb. 25.

CHANCERY LUNATICS.

The LORD CHANCELLOR laid on the table a Bill for the better management of lunatics under the care of the Court of Chancery. The first object of the Bill was to facilitate the disposal of the property of lunatics, and to lessen the expense attaching to the operation, which was at present considerable. Again, a lunatic had now the right of claiming a second inquisition, and the result was that he was often made the tool of persons whose object was only to multiply costs. The Bill proposed that, after the first inquisition, it should be in the discretion of the Court to grant a second inquiry.

Thursday, Feb. 28.

STATUTE LAW REVISION BILL.

This Bill was read a second time.

HOUSE OF COMMONS.

Monday, Feb. 25.

TRADING COMPANIES.

Mr. MURRAY asked the Attorney-General whether it was the intention of the Government to introduce the Bill brought from the House of Lords last session, for the incorporation, regulation, and winding up of trading companies and other associations; and whether he did not think it would be advantageous to the House to discuss it in connexion with the Bill for Amending the Law of Bankruptcy and Insolvency.

The ATTORNEY-GENERAL said he regretted very much that the Bill had not been laid on the table of the House. His right hon. friend the President of the Board of Trade was very unwilling to trust it out of his own hands, but he had no doubt that he would very shortly bring it forward.

BANKRUPTCY.

This Bill was again proceeded with, the House having reached as far as the 19th clause. Most of the clauses were agreed to with but slight amendment.

The Bill will be considered again on Monday next.

Tuesday, Feb. 26.

RECOVERY OF DEBTS.

Mr. HODGKINSON moved for leave to bring in a Bill to prevent frivolous and fictitious defences to actions for recovery of debts. The Bill was founded in some measure on the Bills of Exchange Act of 1855. He did not propose to proceed the full length of that Act, which required that a debtor should go before a judge and satisfy him that he had good ground of defence. He proposed that every debtor should be allowed to enter an appearance, provided he made an affidavit that he had a good defence to the action or some part of it.

Mr. HADFIELD seconded the motion.

The SOLICITOR-GENERAL did not oppose the introduction of the measure, but he said the procedure recommended was identical with or analogous to the procedure on bills of exchange. He thought that in practice considerable difficulties would be found in the application of the proposed improvement. He agreed in the object of the Bill and should be glad to see it carried out in a manner that would be free from objection.

Mr. MCMAHON opposed the Bill.

Leave was given to introduce the Bill.

Wednesday, Feb. 27.

LAW OF FOREIGN COUNTRIES.

This Bill passed through committee.

LAW COSTS.

Mr. DIGBY SEYMOUR obtained leave to bring in a Bill to consolidate and amend the law relating to costs in actions in the Superior Courts of Common Law.

The Bill was read a first time.

CONSTRUCTIVE NOTICE.

On the motion of Mr. Walpole this Bill brought down from the Lords was read a first time.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

Mr. WALPOLE moved the first reading of this Bill, which has passed the House of Lords.

Agreed to.

Friday, March 1.

COURT OF CHANCERY.

Mr. DISRAELI asked a question relative to the Royal commission recently appointed to inquire into the custody and management of the funds of the Court of Chancery. Adverting to the gentlemen who composed the commission, he remarked that if it were not for the name of Lord Kingsdown, the commission must be looked upon with unmodified apprehension.

The CHANCELLOR OF THE EXCHEQUER said the commission had been appointed with a view of giving the best security to suitors and to the public.

PENDING MEASURES OF LEGISLATION.

A BILL TO AFFORD FACILITIES FOR THE BETTER ASCERTAINMENT OF THE LAW OF FOREIGN COUNTRIES WHEN PLEADED IN COURTS WITHIN HER MAJESTY'S DOMINIONS.

This Bill provides that courts within her Majesty's dominions may remit a case, with queries, to a court of any foreign state with which her Majesty may have made a convention for that purpose, for ascertainment of law of such state.

And that the court in which such action depends is to apply such opinion.

And that courts in her Majesty's dominions may pronounce opinion on case remitted by a foreign court.

A BILL INTITULED AN ACT TO AMEND THE LAW REGARDING CONSTRUCTIVE NOTICE TO PURCHASERS AND MORTGAGEES.

It is proposed by this Bill to enact that no purchaser for valuable consideration or mortgagee shall be bound by any implied or constructive notice of any charge, or of any other act, matter, or thing, affecting the title to the property purchased or taken in mortgage, unless the Court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud.

Recent Decisions.

EQUITY.

RECTIFICATION OF SETTLEMENTS.

Thompson v. *Whitmore*, V. C. W., 9 W. R. 297; *Elwes* v. *Elwes*, V. C. S., 9 W. R. 307.

The principles of equity which regulate this subject are few and simple; but the circumstances which control their application are generally intricate. Difficulties arise from what are supposed, or are maintained to be, imperfect expressions of intention; or from the absence of all definition of obligations which were understood, or are alleged to have been understood, to exist between members of a family. Evidence, also, is often scanty, after a period of years has elapsed during which the deed was unimpeached. The results of two recent suits for rectification may be worthy of attention, in both of which the Court refused its aid to the complaining parties. In the former instance, the property, which was personal and came from the wife's family, was settled upon trusts of an ordinary character for the wife for life, and for the children and husband. But the settlement contained this proviso; that "in case there should be no child of the marriage, or being such, all should die under twenty-one and unmarried *in the lifetime of the wife*, then, if the husband should survive the wife, the trustees should stand possessed of the sum of £4,000, in trust for the wife's brother." It happened that all the children died under twenty-one years and unmarried, but some survived the mother. She died in the husband's lifetime, and he took out administration to her estate. The wife's brother asked the Court to rectify the settlement by striking out the words italicised above, on the ground of mistake. He contended that it was the original intention of the parties, that the trusts should take effect in the event of the death of the children unmarried, either in the wife's lifetime or not. The husband opposed this claim. The Vice-Chancellor in giving judgment, ruled two preliminary points, first, that the wife's brother, though merely a volunteer under the deed, was not thereby precluded from obtaining relief; and secondly, on the evidence, that there had been a clear mistake on the part of the wife. But the actual contest lay between the brother-in-law and the husband, and the evidence seemed favourable to the case of the latter. It appeared that before the execution of the deed, which took place in 1838, the husband objected to the provision in favour of the lady's brother, but, as he was anxious to complete the marriage, he ultimately withdrew his objection. Then, when it turned out that the provision inserted in the deed was not so satisfactory to the brother-in-law as he afterwards wished it had been, and was therefore less unfavourable to the husband than was at first contemplated, there could not be said to have been such a mutual error between the two parties as the Court could rectify. The wife undoubtedly was mistaken; but the mistake was rather favourable than contrary to the husband's intention.

In the latter of the two cases, the general outline of the facts

was as follows:—By the plaintiff's marriage settlement in 1826, an estate in tail general was limited to the plaintiff, subject to his father's and his own life estates, and after estates in tail male had been limited to the first and other sons of the plaintiff. The plaintiff afterwards became involved in money difficulties, and applied to his father for assistance. The father assented to the request on the terms that the estates should be limited in the male line exclusively. The plaintiff objected to the entire exclusion of his daughters, and in 1842, the plaintiff's estate tail general was barred (subject to the preceding estates), and a re-settlement made to such uses as the father and son should jointly appoint; and subject thereto to the plaintiff's first and other sons in tail general, with remainder to his first and other daughters in tail general. The plaintiff had only one son, Valentine, who was supposed to be in delicate health; and four daughters. The father's wish to preserve the estates in the male line continued, and in 1846, a deed of joint appointment was executed by father and son, whereby the daughters' estate tail was barred, and a term of 1,500 years was created for raising £100,000 for their portions, in the case of the death of Valentine and every other son of the plaintiff without issue male. This term of years was the subject of the suit. Ten years afterwards, in 1856, the plaintiff's only son Valentine wished to marry; the grandfather having in the meantime died. On this occasion, after much negotiation, a settlement was prepared, whereby the estate tail of Valentine was barred, the term of £1,500 years was destroyed, and the estates were re-settled. Neither the disentailing deed nor the re-settlement made any express mention of the term of years. The plaintiff filed the bill to have this term for the benefit of his daughters restored to the settlement. The decision necessarily turned upon the evidence. It appeared that £100,000 was nearly one-third of the estimated value of the estates. But, what is more remarkable was, that, during the negotiations of 1856, which were carried on behalf of the plaintiff's son, Valentine, by a clergyman, an intelligent man and friend to the family, in whom all had confidence, not one word from first to last was expressed with reference to the term. It seems to have been wholly overlooked. The son, Valentine, long before 1856, was aware of the existence of the charge, but was never asked to keep it in existence. Under these circumstances the Vice-Chancellor very pertinently observed that what was really sought was, "to rectify the oversight of not making any agreement at all on the point in question. No settlement," he added, "has ever been altered or reformed on the ground that a stipulation which was wished or intended by one of the contracting parties, but never agreed to, or even mentioned or brought to the attention of the other contracting parties, has been omitted." From these two cases it may be gathered that want of mutuality in the alleged error, or the omission from the agreement of all mention of the term sought to be supplied, are fatal objections to the case of a plaintiff who seeks to have a settlement rectified.

Interest on Arrears of an Annuity.

Booth v. *Coulton*, V. C. S., 9 W. R. 330.

An application was made to the Court in this case that interest might be allowed on the arrears of annuities, which were given by a testator, by will, to his son, his daughter, and to a stranger. No special case of misconduct or negligence was alleged. The argument advanced was that, under the old law there existed, and that there still exists, a distinction between an annuity given by will, and an annuity granted under contract. The former was argued to be, in principle, a legacy; and upon the arrears of legacies the Court has always allowed interest. The annuity granted for value, on the other hand, was said to be analogous to a debt, and by a rule of the Court was generally treated in the same way as a debt not carrying interest. In favour of the claim, the old case of *Litton* v. *Litton*, before L. C. Parker, in 1719, 1 P. Wms. 541, was mainly relied upon. The Court, however, would not admit the distinction as existing at the present day. The cases of *Aylmer* v. *Aylmer*, 1 Moll. 87, and *Torre* v. *Brown*, 5 Ho. of Lds. Ca. 555, were considered to be conclusive of the proposition that, except under extraordinary circumstances, in the case of a voluntary annuity given by will, interest will not be allowed on the arrears. It is still, however, a remarkable circumstance that the question has never been argued or decided upon the simple question whether, in the distribution of assets as between legatees and annuitants, interest should be allowed to the latter; and the position of annuitants, in respect to this question seems to be so similar to that of legatees, that it is not easy to account for the strong current of authority that has made the law what it is.

REAL PROPERTY AND CONVEYANCING.

Charge of Debts—Direction to Pay Debts—Implied Power of Sale.

Cook v. *Dawson*, M. R., 9 W. R. 305.

We are indebted to a correspondent for pointing out, that a portion of our remarks on this case *ante*, p. 298, is founded on what turns out to be an erroneous view of the Master of the Rolls' observations in the course of his judgment. The passage is "This rule is liable to another exception; where a will contains a devise of land to the executors, then the direction that the debts are to be paid by the executor does not affect the validity of the general charge of debts on his real estate." Whose real estate? Taking the sentence with the context, we were led to suppose that of the testator. Our correspondent points out, what, indeed, the grammatical construction of the sentence alone warrants, that the antecedent to "his," is not the testator, but the executor. It follows that all supposed discrepancy between the Master of the Rolls' judgment and the decision in *Harris* v. *Watkins* is removed. The reasoning of the learned judge is also found to be such as leads naturally to the conclusion in *Cook* v. *Dawson*, as well as to be in accordance with previous authority.

COMMON LAW.

Common Law Procedure Act, 1852, s. 18—Action against British subject out of the jurisdiction of the Courts.

Bates v. *Bates*, 9 W. R., C. P., 261.

In a recent number* notice was taken of this case and of the practice under the Common Law Procedure Act, 1852, in actions taken against British subjects out of the jurisdiction. It now appears that the proceedings in that particular action have been stayed by a judge's order—obtained on what grounds the report of the fact does not enable us to state. But we are not sorry to have thus an opportunity of saying a few words more upon the power which under this Act exists, of obtaining against a defendant out of the jurisdiction, a judgment and execution which will operate upon his landed or other property in this country: as the extent of the efficacy of these proceedings acquires considerable importance in reference to the Bankruptcy Bill now passing through Parliament. In a most able and instructive letter† upon this measure, recently addressed to Sir Richard Bethell, by Mr. B. Hoskyns Abrahall, one of the registrars of the Court of Bankruptcy,—which abounds with intelligent suggestions clothed in lively and classical language far from common in disquisitions of this nature—it is asserted that no means at present exist by which the property in this country of a defendant residing abroad, can be reached through the agency of the law. The fact is otherwise in theory, at least, as is exemplified in this very case of *Bates* v. *Bates*; but there is little doubt that proceedings against such defendants are seldom instituted; and that, if commenced, they are still less frequently carried to a successful termination. That this is so Mr. Abrahall's statement is itself strong evidence; for taken merely as the opinion of an *expert* in bankruptcy, it shows conclusively that the power thus recently conferred upon the common law machine, has not yet practically added an additional weapon in defence of commercial interests. It may also be remarked that in the recent debate on the second reading of the Bill, the existence of this mode of proceeding was noticed and urged as an argument against the necessity for any change; but the Attorney-General justified his proposal to subject non-traders to the liability to become bankrupts, on the ground that under the present law, though it was true that if debtors were themselves away from England, their property here might be made available towards the satisfaction of the debt of any creditor or creditors who obtained a judgment,—it was more just, and for every reason more satisfactory, that a creditor's chance of payment should not depend upon his own individual exertions and haste in suing his debtor; but that a judgment obtained against the debtor should benefit all the creditors rateably, as would be the case under the new law.

* Vide sup. p. 261. † Stevens & Son. 1861.

Correspondence.

MOSE'S CASE.

SIR,—We cannot corroborate the statement in the plaintiff's solicitor's letter to you that he applied for a sight of our clients' title deeds previous to his filing the bill in *Bailey* v. *Lamb*; and we subjoin a copy of the correspondence which took place between his firm and ourselves on the subject, and which is also set out in our clients' answer in the suit. The first mention of the deeds was our spontaneous offer to produce them, and the plaintiff's solicitor in no way sought their production.

If any such statement in the Rolls Court respecting the deeds as that mentioned in the plaintiff's solicitor's letter was made it was not made within the hearing either of ourselves or our counsel, and his letter in your Journal is the first information of it which has reached us; and it is, perhaps, scarcely necessary to add that, in the then stage of the suit, nearly all the expenses of it had been incurred, and the substance of the deeds had then been set out in our client's answer.

The excuses in the plaintiff's solicitor's letter in no way modify our clients' views of the vexatious character of the suit as regards themselves. Probably they were not intended to do so, but merely to endeavour to exculpate the plaintiff's solicitors' themselves from any supposed breach of their own duty towards their unfortunate client, the deceased plaintiff. Our clients still feel that a grievous wrong has been inflicted on them in the recent renewal of litigation respecting a property which they had previously satisfied Mose's former advisers (by production of the title deeds) to have been *bonâ fide* and absolutely our clients' own, and although they were aware the case was still hawked about to a certain class of the profession, they had reposed in the assurance that no solicitor who had notice of the result of the previous production of the deeds would have been found ready to renew the hopeless litigation.

The claimant's story was on the face of it fabulous, and the plaintiff's solicitor himself in his letter to you states that there was "an absence of evidence;" and, so far as the facts had been ascertained, the case was utterly negatived, for in the answer of the Rev. William Jay to the first suit, in which he was interrogated as to Mose's parentage and history, and as to the supposed fact of his having been sent by our clients' ancestors to Mr. Jay for the purpose of being brought up in ignorance of his relations and property, Mr. Jay denied, on oath, having ever known anything of our clients' ancestors, or heard of their existence until informed by Mose's bill, and stated explicitly who and what Mose really was; yet in the new bill the old story and surmises are repeated, and the actual facts as disclosed by Mr. Jay, ignored. Again, one of our clients was charged in the old bill with being the sole devisee and legatee of a person who was alleged to have become possessed of a portion of Mose's supposed property. The fact was that such person gave his property to his wife and seven children, yet in the new bill the same unfounded allegation was repeated, although the will was proved at Doctors' Commons, and open to every one's inspection.

Our clients were put too to the expense of exceptions to their answer, upon trivial points, after their answer had set forth the substance of their title deeds and shown that the plaintiff's claim was utterly unfounded. The allegations of fraud were of such a serious nature, and at the same time our clients' title so absolutely clear and free from all suspicion, that it was unfortunately impossible for them to compromise or listen to terms; and they were left no alternative but to enter at a heavy expense upon the defence of the suit; and so decided were they as to the course which it was their duty to pursue that, although the plaintiff's solicitors proposed a compromise at £1,000, we were obliged to tell them that our clients would not give even 20*s*.

We are, Sir, yours very obediently,
SUDLOW, TORR, & Co.

Bedford-row,
28th February, 1861.

"38, Bedford Row, W.C. London,
"25th November, 1859.
"Mose *v.* Lamb.

"Dear Sirs,—Since Mose's bill was dismissed we have produced to two gentlemen who interested themselves and applied to us on his behalf, the documents in our clients' possession to satisfy them that his claim was really without foundation. They were Mr. Macaulay, M.P. and Messrs. Hodgson and Burton, to whom we would suggest your applying before you allow any more of this misguided man's money to be wasted in useless litigation.

"We enclose for your perusal extracts from our letters to our clients communicating the result of the above-named gentlemen's investigations, the bearing of which we have no doubt you will find fully borne out by the gentlemen themselves if you will apply to them.

"We beg further to add that if you are not satisfied with these gentlemen's assurances we have our clients' permission again to produce their deeds to any competent disinterested third person whom we may mutually agree on to say whether there is any foundation whatever for your clients' supposed claim.

"We are, dear Sirs, yours truly,
"SUDLOW TORR, & Co.

"Messrs. Grane and Fesenmeyer."

"23 Bedford Row, 26th November, 1859.

"Dear Sirs,—Mose *v.* Lamb—We have gone very carefully through the pleadings in the old suit and are of opinion that if the facts therein stated are true, the plaintiff has a good case. We have also had a very rigid conference with him as to the evidence in support of his claim and see no ground for doubt. We do not see how any one unacquainted with the details of this most singular case can on inspection of your clients' title deeds found correct opinions as to whether or not his uncle and those claiming under him possessed themselves of property which belonged to the testator under whom our client claims as heir-at-law. We thank you for the offer of inspection, but for the reasons above stated we feel convinced that no third party can do justice to the case.

"We are, dear Sirs, yours truly,
"GRANE SON & FESENMEYER.

"Messrs. Sudlow Torr & Co. Solicitors,
"38 Bedford Row."

"38, Bedford Row, W.C. London, 28th Nov. 1859.

"Dear Sirs,—Mose *v.* Lamb.—We think you misunderstand the point with reference to the production of the deeds. Your client alleged that some of the property at Reading possessed by the late Mr. Lamb was the property of your clients' grandfather. An inspection of the deeds would satisfy anyone that it never did belong to such grandfather and that Mr. Lamb acquired it by purchase.

"Our object was partly to save you trouble and from being the instruments of wasting any more of the poor man's money after six previous solicitors had thought fit in turn to throw up the case.

"We are, dear Sirs, yours truly,
"SUDLOW TORR & Co.

"Messrs. Grane & Fesenmeyer."

PROFESSIONAL REMUNERATION IN THE UNITED STATES.

We have been favoured with the following extract from a letter recently received by a gentleman well known to the profession in this country from Theophilus Parsons, LL.D., Dane Professor of Cambridge University in the United States.

Cambridge, U.S., A., Feb. 5, 1861.

My dear Sir,—I have read with much interest the documents I received from you a few days since. Our practice, on the points discussed, is so entirely different from yours, that I doubt my ability to understand accurately the questions now in agitation in the profession, or the reason by which these questions must be determined. Nor have I had, for many years, much experience in matters of this kind. In 1848 I accepted the professorship I now hold, and its onerous duties took me at once from the practice of my profession, and I have never resumed.

It seems to me, however, certain that your endeavours tend to some results, which are of much importance, and, perhaps, of equal importance to solicitor and client. One is, that the remuneration for services rendered shall be so definite and ascertainable, that a man may know, within reasonable limits, how much the law expences of a transaction will add to its cost. Another is, that this remuneration may approach in all cases, the true measure of adequate and proportionate compensation, and, therefore, be just to all parties. Another that it may be determined by rules and principles to such an extent, that the greedy and unscrupulous may not easily victimise their clients, nor the modest and cautious go without

fair play. And yet another, that these rules and principles shall not so operate, as to induce solicitors to make a transaction intricate, and in all its steps protracted, that it may be profitable for them. In this country we lawyers have very little difficulty in matters of this kind. The reasons are,—

First, the universal prevalence of the *quantum meruit* principle;

Secondly, the absence of all stringent rules; for this permits usages on these points to grow out of and depend upon mutual and satisfactory arrangement;

Thirdly, the far greater simplicity of our method of conveyance and trust; and

Fourthly, the fact that a vast proportion of the business done in England by solicitors is here wholly outside of the profession; being in the hands of bankers, brokers, land agents, loan agents, or trust institutions. And all of these quite uniformly charge a per centage on the funds in their hands.

Almost all bargains pass through the hands of parties of this kind; and come to lawyers only when the terms are concluded, and the title is to be investigated, or the authority of agents ascertained, and instruments of conveyance or trust to be drawn.

As to the per centage,—that charged by temporary trustees, as executors or administrators for example, whose duty it is to collect and distribute funds, and so terminate their trust, is usually from 2 to 5 per cent. on the capital. and varies according to amount, and circumstances of greater or less trouble or difficulty, or responsibility.

Permanent trustees, who invest and hold funds, and apply the income annually as the trust directs, usually charge about 5 per cent. on the income (estimating a fair amount on the unproductive part of the funds), and this income with us in New England may be put at about 6 per cent., which is, in the New England States, the legal rate of interest.

All charges of this kind, as indeed the whole matter of trusts, is within the powers of our courts of probate, or our equity courts, or common law courts having equity powers. They would probably not interfere of their own mere motion, unless in cases of unquestionable wrong. But our statutory provisions and usages make it very easy for any one who was injured or endangered by a trustee, to obtain a remedy, or a prevention, and usually in a cheap and summary way.

Thus, the principal trust I now hold, is of an estate left some years ago in trust for educational purposes. It amounts to rather more than 600,000 dollars, (£120,000.) The salaries paid to five trustees amount to only 2,100 dollars (£420); of which two-thirds are paid to the managing trustee, who is not a lawyer.

For some years we have been endeavouring to simplify and improve our practice. In some of the States, as in New York, the change is entire; not only special pleading, but all distinction between equity and law being abolished. In Massachusetts, the changes are important, but not so great; and in some of the States the old system remains unaltered.

COPYHOLDS.—PRIVILEGES OF STEWARDS.

A few weeks ago* a correspondent of the *Solicitors' Journal* made the inquiry whether, in cases where powers of attorney to surrender copyholds are used, it is the province of the steward of the manor to prepare them, or of the solicitor to the vendors. I have, as solicitor to the vendors, under similar circumstances, at the present time, a contention with the stewards of a manor upon the very point, and I shall be glad if any of your correspondents can refer me to any authority upon the question. The practice appears to vary exceedingly in different courts.—I am, yours obediently,

Birmingham, Feb. 28, 1861. C. T. S.

THE BANKRUPTCY BILL.

Can anything be done to prevent the frequent habit of the commissioners to sit in private in some room one can never find? And could one or two of those very elderly gentlemen find out that it is pretty nearly time they retired? I hope the Bill will deal with these matters.

J. J. A.

* See *ante*, p. 263.

JURIDICAL SOCIETY.

At a meeting of the Juridical Society held on the 4th inst. the Hon. George Denman, M.P., read a paper on the question:—"Is the Government of the United States of America entitled under the Ashburton Treaty to claim the extradition of the fugitive Anderson?" The early part of it was devoted to an elaborate discussion of the point, whether, independent of treaty, a right to claim the extradition of criminals exists by the law of nations, which, after a full examination of the authorities, Mr. Denman resolved in the negative. After premising that all extradition treaties should be construed strictly, Mr. Denman next proceeded to contend that the effect of the proviso in the Ashburton treaty is, that the question, whether a party is liable to extradition, depends on whether the act he did is a crime by the law of the country where he is found. In the present instance the party was found in Canada; and as by the law of that country slavery cannot exist there, and the offence with which he was charged is dependent altogether on the institution of slavery, no claim for his extradition could be maintained. This construction he considered fortified by the 7 & 8 Vict. c. 76; 8 & 9 Vict. c. 120; and the Canadian Extradition Act, 22 Vict. c. 89.

Mr. Collier said that extradition treaties were intended solely to meet the case of persons who offended against the law of nature and of nations.

Mr. Fitzjames Stephen considered that the claim to extradition in this case was well founded, so far as the treaty and statute were concerned, but did not therefore conclude that Anderson ought to be surrendered. The nation should take upon itself the responsibility of saying to America that it had made an unrighteous contract which it could not carry out, and not expect the law-courts to relieve it from the consequences of its error by perverting sound principles of interpretation.

Mr. W. M. Best was of opinion that the word "murder" in the treaty must be construed according to the meaning of that word in, and the general principles of, international law. He referred to the rules for the interpretation of treaties, &c., laid down by Grotius (book 2, c. 16), and adopted by Wheaton (International Law, 355, 6th ed.) and other writers.

On opening the adjourned discussion on the 18th instant,

Mr. Westlake, observed that, though the question arose on a statute, it was in fact a treaty which had to be interpreted. When a statute recited a treaty-stipulation in its preamble, proceeded to enact provisions expressly for carrying it into effect, and finished by limiting its own duration to that of the clause of the treaty in question, it was plain that Parliament meant what the negotiators and contracting parties meant. It was therefore necessary to disembarrass the mind of all narrow methods of construction, such as are sometimes applied to statutes, and to remember that a treaty was a contract between parties who had in their view the established principles of international law, and who were subject to no technical rules restricting the sources of interpretation from which light might be thrown on the import of the words they used. If, then, a principle of international law could be found which forbade the extradition of Anderson, and one too so well known that the high contracting powers could not be imagined not to have had it present to their minds, it was not necessary to show that that principle was expressly referred to in the treaty or statutes, it was enough that it was not expressly abandoned. Such a principle was this, that even in cases of extradition the criminal law of a foreign country was not recognised merely as such. Grotius, indeed, had thought otherwise. After laying down extradition as a rule, he proceeded to say, "If that of which the refugees are accused be not forbidden by the law of nature or nations, their case will have to be decided by the municipal law of the state from which they come." (II. 21, s. 6.) But this, by drawing attention to the point, had only drawn forth numerous clear opinions on the other side. Vattel gave to extradition no other foundation than the right to punish a crime committed beyond the territory of the punishing power: when such punishment may be inflicted, said Vattel, there is the alternative of extradition; but such punishment can only be inflicted on those who by their atrocity declare themselves the enemies of the human race," (b. 1, s. 233.) The same restriction on extradition was pronounced by Chancellor Kent (1 Comm. 32), who, nevertheless, is well known to have gone farther in favour of extradition independent of statute than the common law of England and America will warrant; and it is incompatible with the extradition of those who have declared themselves the enemies only of a particular foreign law not generally received by civilised men. Dr. Phillimore

too says, "there are two circumstances to be observed, which occur in these and in all other cases of extradition :—1st. That the country demanding the criminal must be the country in which the crime is committed: 2nd. That the act done on account of which his extradition is demanded, must be considered as a crime by both states." (Int. Law, v. 1, p. 413.) Also extradition treaties enumerate only grave crimes, and in that between France and Belgium a power is reserved to refuse the extradition, on assigning the reasons, even in special cases of the crimes enumerated. Grotius, in general so profuse in quotation, supports his dictum cited above by one only, and from a play of Æschylus; and the context shows that he regarded the opinion in question as a conclusion from the principle of recognising a foreign personal status, so that its base has long since been cut away, it being well established that even in cases far short of extradition a foreign criminal status is not recognised as a foreign civil one is. Such was the knowledge, and such the ideas, which we are obliged to presume in the parties to this treaty. Where then were the words by which the principle of not recognising a foreign criminal law merely as such was abandoned? If the proviso as to the sufficiency of the evidence which had been so much discussed, was not in favour of Anderson, certainly it was not against him: the argument of the opponents on that head was purely negative. Mr. Stephen had said, on the previous night of debate, that crime was in its nature local; that the mere mention of a murder as committed in Missouri necessarily implied murder by the law of Missouri. The truth, however, was that the authority against which a crime is committed is local, but that there was not necessarily anything local in the nature of the act. If there were, the result would be that the words describing crime could have but a local meaning, and there would be no common meaning of the word "murder" in which the parties to the treaty could be supposed to have agreed; for it was impossible to import into the treaty so many entire clauses as would be requisite to express that the word murder meant one thing when extradition was demanded by one party, and another when it was demanded by the other party. It was necessary to find a common meaning for the word in which the parties had agreed, and such was furnished by the common law, which was the inheritance of the United States as well as of this country. That this law was referred to was further shown by the fact that in our treaty with France, with which we had no system of law in common, certain articles of the French code were referred to as ascertaining the meaning of murder when committed in France. Now, by the common law, murder was "unjustifiable homicide with malice aforethought." So far we were led by legal definitions and maxims equally recognised by the contracting parties, England and the States, and which therefore fixed the sense in which they had used this word "murder," and the conclusion was consonant to the international principle of allowing extradition only in cases of atrocity—cases of crime against humanity. Beyond that, if we inquired what authority it might by the law of either country be justifiable to resist even to the extent of homicide, we reached ground no longer common. This part of the inquiry introduced the Missouri law of slavery. It might be veiled by speaking of "resistance to authority acting rightfully in the execution of the law;" but it was there; and it could never be that, when it was so well settled in our jurisprudence that we did not recognise a foreign slave-law, we should allow such a law which could not pretend to enforcement among us directly to be recognised and enforced indirectly.

Mr. Westlake, having considered the legal merits of the main case, was proceeding to consider what, in the present state of facts, should be done in it; but it was ruled by the chairman that this was beyond the scope of the notice, which was itself extensive enough to occupy the evening.

Mr. F. S. Reilly : I cannot but think that Mr. Denman's detailed examination of case-law, supposed to bear on this question, was a waste of acumen. There is surely no danger now-a-days of any man's life or liberty being decided away on quaint scraps out of Ventris, or on vague statements by Mr. Justice Heath of what happened in Lord Loughborough's time. And this, even if there was no treaty. But when there is a treaty, I confess it seems to me clear that all the rights and all the obligations of the parties are to be found within the four corners of the written contract—that in the express stipulations of that instrument are merged all common-law doctrines, all international comity. What, then, says the treaty? Like the former treaty between the same parties it uses the term "murder," purely and simply and without a word of gloss. In an instrument framed by two contracting parties every word must be presumed to be used in some sense intelligible to both, common to both. "Murder" must here mean that something is murder by United States law, and that is murder by English law. I cannot see any reason to look for a *tertium quid*, as Mr. Stephen thinks necessary, or to go in search, with Mr. Best, of the law of nature. Now there is no doubt the act here in question is murder by United States law. Is it murder also by English law? The chief justice in Canada holds that it is. It seemed to me that Mr. Denman did not grapple closely with the particular arguments of the Chief Justice. I understand the learned judge to say that, whatever supposed cases may be put, here you have the naked case of one man killing another who was endeavouring to arrest him in a manner lawful according to the *lex loci*, for a purpose lawful according to the *lex loci*,—the man endeavouring to effect the arrest being as fully clothed by the *lex loci* with a right to arrest the other as if he had been an officer of the law armed with an express formal warrant in that behalf,—and that such a killing is by the law of England not justifiable, is by the law of England murder. If the case rested there, I humbly conceive there would be much room for argument in support of the Chief Justice's view. It might well, I think, be contended that in cases of this kind the courts of one country are bound to take the law of another country as they find it,—that constituted as they are to administer law as it is, not to apply to the facts before them their own theories of morals, their own conception of the rights of man, they are not called upon to inquire, and would not be justified in inquiring, into the abstract lawfulness of the *lex loci*, in violation of which the killing was committed,—in short, they must decide such a case as this on the narrow but plain grounds of strict law, without going into the merits of slavery or any other "peculiar institution" of the country where the act was done. This, I submit, and much more than this, might be said, if the case rested there. But happily, as I think, it does not rest there. This is not simply, if at all, a question of technical law. It might never have come into one of the Queen's courts. The treaty can only be put in force by the Secretary of State. A court of law may release a man claimed; it has nothing to do with delivering him up. It may forbid extradition, it cannot enforce it. The matter is a matter of State, of the action of the Executive. The rules for the action of the Executive are to be found not merely in the treaty, but in the Act of Parliament. The Crown can make a treaty, in some sense binding itself and the country generally, but it cannot by treaty affect the liberty of an individual subject. The Act does not confirm the treaty, *totidem verbis*, so as to give statutory force to the provisions of the treaty. The Act (and this is a very different thing), makes provision for carrying the treaty into effect, and furnishes the machinery for that purpose. If these considerations govern the case, as it seems to me they do, then there cannot be much difficulty about the refusal of this extradition. For, first, when in the Act you find the word "murder" you can have no doubt about its meaning. There is no room here for a treble or a double sense. Here there are not two parties speaking. The language is the language of the Legislature of this kingdom. "Murder" must mean in this Act of Parliament what it would mean in any other Act of Parliament—murder according to English law. Clearly, then, the Secretary of State cannot grant extradition unless he sees there has been a murder according to English law, without having any regard whatever to the law of the demanding State. Next, the Act does not compel the Secretary of State to comply with every demand for extradition, even if technically good under the treaty. He is not bound down by the purely technical consideration which fitted a court of law. He has no need to exercise astuteness to escape from a difficult position; where he is not under a rigid rule, he may take into account all the elements of the case. He may and must look at all the political and social circumstances which surround it. I will put a case, which, though it may seem to be nearly *idem per idem*, will illustrate what I mean. Suppose the treaty provided for the extradition of persons charged with having committed the offence of adultery; and suppose Utah had been admitted into the union; would not the Secretary of State be justified, as English law and opinion respecting marriage now stand, in refusing to recognize polygamy, and therefore in declining to give up a man claimed as the paramour of the second or any subsequent woman whom a Mormon gentleman had taken to wife, leaving the first? It seems to me that he would, whatever a court of law might say on the subject. And so, if a man were claimed as having committed murder or any other of the specified offences, the Secretary of State would be entitled to refuse his extradition, if it appeared to him that the offence was in substance a

political one: and yet neither the treaty nor the Act contained any express saving for the cases of political offenders. Lastly, when you look to this as a question for the Secretary of State under the Act of Parliament, you gain this great advantage, that you can then take into account what passed in the House of Commons when the Act was made. The Attorney-General and the Government declared it was not intended that, under the treaty, slavery and its consequences should be recognised as lawful. Without this declaration it is plain the Act would not have been passed. It was passed, we may say, on that condition. This was a term imposed on the executive as plainly, almost, as if it had been embodied in the Act. Now it is needless to say that in a court of law such considerations are altogether out of place. Again, if the question arose on the treaty simply such *ex post facto* declarations by one party as to what was intended might be wholly repudiated by the other. But this bargain between the Legislature and the executive, for that is what it amounts to, is most important in the view I am submitting to you. It not only binds the Secretary of State, as between him and the people of this country, but it also justifies him towards the United States when he refuses to assume a power conferred on him—indeed, it might seem by the letter of the statute—but which there is the clearest evidence to shew was never intended to be vested in him, and an attempt to exercise which would render him liable to impeachment. On the whole, then, I would submit that the only safe course is to raise this question altogether out of the region of technical jurisprudence. It seems to me unfortunate that it was ever brought on in a court of law, and I venture to express a hope that it may never again be so. Let it be treated, as what I submit it is, a question of mixed law and politics, not of dry law. Then the minister can legitimately rely on the proved intention of the Legislature. He can appeal to the established political principles of the country in regard to slavery. He can say to the United States, such and such are the reasons why we think we have not bound ourselves to give this man up. We hope these reasons will satisfy you, and that you will withdraw your demand. Whether you do so or not, however, we will not give the man up; and if, after all, you insist on having him, why, then, you must come and take him.

Mr. C. H. Hopwood, on the contrary, thought that the construction of the provisions of this treaty was for courts of justice, and not for ministers of state.

Mr. F. M. Nichols considered that crime must be understood with reference to the law of the country where the party is found. It is only by the comity of nations that the laws of one country are recognised in another; and this is never done when those laws are in violation of natural justice or decorum.

Mr. Vernon Lushington, Mr. A. Cohen, and Mr. C. Clark, also took part in the discussion.

Mr. Denman replied, contending that his original views were correct. He stated that the society should discuss the question as jurists, not as statesmen. The proviso in the present treaty was evidently copied, word for word, from a similar treaty between the same countries in 1795. There were but few reported instances of extradition under either Act, some of those which arose in America having gone off on the by-point of whether the claim of extradition had been made by duly authorised persons. A case occurred at Bow-street, before Mr. Hall, in which America claimed a man on a charge of robbery, under circumstances that by English law only amounted to larceny by a servant; and the man was not given up.

TRADE MARKS.

Lord Campbell's Bill, which is now passing through Parliament, affords a favourable opportunity for putting an end to a practice which ought never to have been allowed—that of stamping upon electro-plated wares marks so much resembling those used at the assay offices that the most practised eye, without careful examination, cannot discern the difference. Such an evil was this considered in the last century that in 1773 a Parliamentary inquiry was instituted into the state of the several assay offices in the United Kingdom.

The undue severity of the 16 s., 24 Geo. 3, cap. 53, rendered it perfectly nugatory; for, as life or death depended upon the proof of what was, or was not, an "imitation or resemblance," in the sense of the statute, juries rarely, if ever, would convict upon evidence so subtle and evasive; and the same may be said of the more recent, but milder statute of the 7 & 8 Vict. c. 22, viz., that the difficulty, if not impossibility, of defining "imitations and resemblances" to the satisfaction of juries, has rendered this attempt at legislation, as it will all others of the kind, perfectly abortive.

The obvious course is to abolish marks altogether upon base metals, confining them only to the precious metals; but, if any marks are to be used, let them be so decidedly "distinctive" that there shall be no possibility of quibbling upon words.

However, there can be no question, if a Parliamentary inquiry were now to be made in the present state of the assay offices, many important facts respecting marks on metals would be elicited. The Government have as much right to claim protection for their "marks on wrought plate" as any manufacturers or commercial firms have for those by which they distinguish their wares; and, if this cannot be effected in any other way than by restricting the application of any marks to wares made of the precious metals only, the sooner it is done the better.

Public Companies.

BILLS IN PARLIAMENT

For the Formation of New Lines of Railway in England and Wales.

The Committee of Selection have made the following classification of Railway Bills into committees to meet on the 5th inst.:—

Alcester.
Ancholme.
Barnsley Coal.
Bradford.
Bradford and Halifax Junction.
Dewsbury and Batley.
Great Northern (Doncaster to Wakefield).
Grimsby.
Hull and Doncaster.
Lancashire and Yorkshire.
Leeds.
Midland (four Bills).
Ramsey.
South Yorkshire.
Stratford-on-Avon.
Trent.
Wakefield and Leeds.
Worksop and Staveley.

To meet on the 6th instant:—

Blackpool and Lytham.
Garston and Liverpool.
Lancashire and Yorkshire (Wigan and Settle).
London and North Western (Eccles and Liverpool).
Walton and Edgehill Junction.

To meet on the 7th instant:—

Birkenhead.
Bishop's Castle.
Cheshire Midland.
Ellesmere and Whitchurch.
London and North Western (Cheshire lines).
Oswestry.
Oswestry and Ellesmere.
Oswestry and Newtown.
Shrewsbury.
Shrewsbury and Welchpool.
Stockport.
Timperley and Altrincham Junction.
West Cheshire.

The standing orders have been dispensed with in the following cases:—

Devon Central.
Llanelly.
Merionethshire.
Mid Wales.

The following Bills have been referred to the select committee:—

Bognor.
Bognor and Brighton.
Chichester and Midhurst.
Horsham and Guildford Direct.

MARGATE (Ramsgate Extension).
SITTINGBOURNE AND SHEERNESS.
UCKFIELD AND TUNBRIDGE.

REPORTS AND MEETINGS.

BIDEFORD EXTENSION RAILWAY.

At the half-yearly meeting of this company, held on the 27th ult., a dividend at the rate of £3 per cent. per annum for the half-year ending December 31 was declared.

CONISTON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., by agreement with the Furness Company the shareholders of this company are entitled to receive one-third of the dividend declared upon the ordinary stock of the Furness Company. The dividend declared by the latter company for the last half-year is at the rate of £8 per cent. The proportion of this company for the same period, therefore, is at the rate of £2 13*s.* 4*d.* per cent. per annum.

FURNESS RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend at the rate of 8 per cent. for the half-year ending the 31st of December was declared.

GREAT NORTHERN RAILWAY.

The half-yearly meeting of this company was held on the 23rd ult. Resolutions were passed declaring the dividends on the 5 per cent. and 4½ per cent. preference stocks, and also at the rate of £3 3*s.* 9*d.* per cent. on the original stock, at the rate of 3 per cent. on the B stock, and at the rate of £3 7*s.* 6*d.* per cent. on the A stock for the past half-year. The dividends became payable on the 1st inst.

LEOMINSTER AND KINGTON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend at the rate of 4½ per cent. on the preference shares was declared.

MID KENT (Bromley and St. Mary Cray) RAILWAY.

The directors, by their report, recommend a dividend at the rate of £3 per cent. per annum, free of income-tax, to be declared for the next half-year.

MONKLAND RAILWAY.

At the half-yearly meeting of this company, held on the 21st ult., resolutions declaring a dividend at the rate of 6½ per cent. per annum, and converting the 6,138 shares of £25 each into stock, were unanimously agreed to.

NORFOLK RAILWAY.

At the half-yearly general meeting of this company, held on the 26th ult., a dividend of £1 17*s.* 6*d.* per cent. for the last half-year was declared, payable on the 15th inst.

NORTH DEVON RAILWAY.

At the half-yearly meeting of this company, held on the 27th ult., a dividend at the rate of 17*s.* 6*d.* per cent. was declared on the ordinary stock, and of £1 15*s.* per cent. on the B stock, payable on the 6th inst.

NORTH LONDON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend of £2 15*s.* per cent. was declared for the last half-year on the ordinary stock of the company.

NORTH AND SOUTH WESTERN JUNCTION RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend at the rate of 5½ per cent. per annum was declared for the last half-year.

NORTH WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend of 4*s.* per share, being at the rate of £2 per cent. per annum, was declared, payable on the 5th inst.

NOTTINGHAM AND GRANTHAM RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend of 3*s.* 6*d.* per share was declared, payable on the 7th inst.

SOUTH EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 28th ult., a dividend was declared of 18*s.* per £30 stock, payable on the 7th inst.

SOUTH WALES RAILWAY.

At the half-yearly meeting of this company, held on the 22nd ult., the dividend of £3 10*s.* per cent. per annum, recommended by the directors' report, was declared, and the retiring directors and auditors re-elected.

VALE OF CLWYD RAILWAY.

The directors, by their report, recommend a dividend at the rate of £3 per cent. per annum to be declared for the last half-year, and to be payable on the 15th inst., leaving a balance of £ 293 to be carried forward.

VALE OF NEATH RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., dividends of 5 per cent. on the preference stock and of 2½ per cent. on the ordinary stock were declared.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Monday, March 4.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, March 8.

Court Papers.

VACATION BUSINESS AT THE COMMON LAW JUDGES' CHAMBERS.

1st March, 1861.

The following regulations for transacting business at these chambers will be strictly observed till further notice.

Acknowledgments of deeds taken at 10 o'clock.

Original summonses only to be placed on the file.

Summonses adjourned by the judge will be heard at half past 10 o'clock precisely, according to their numbers on the adjournment file, and those not on that file previous to the numbers of the day being called will be placed at the bottom of the general file.

Summonses of the day will be called and numbered at a quarter to 11 o'clock, and heard consecutively.

The parties on two summonses only will be allowed in the judge's room at the same time.

Counsel at 1 o'clock. The names of the causes to be put on the counsel's file, and the causes heard according to number.

Affidavits in support of *ex parte* applications for judge's orders (except those to hold to bail), to be left the day before the orders are to be applied for, except under special circumstances, such affidavits to be properly endorsed with the names of the parties, and of the attorneys, and also with the nature of the application, and a reference to the statute under which any application is made, the party applying being prepared to produce the same.

All affidavits read or referred to before the judge must be endorsed and filed.

Further time to plead will not be given as a matter of course.

THE 29TH CANON OF THE CHURCH.—At the meeting of the Houses of Convocation, on the 26th ult., the Bishop of Oxford moved a resolution that the 29th Canon of the Church, which provided that for each child brought for holy baptism there should be three sponsors—the parents who brought the child for baptism not being allowed to act in that capacity—should be so altered as to allow the parents of the child to act as sponsors, together with one friend in whom they had confidence, thus making the three sponsors required by the rubric of the Church. The resolution was carried without a dissentient.

MISSIONARY BISHOPS.—The Queen's Advocate, the Attorney-General, and the Solicitor-General have, upon a case submitted to them by the Archbishop of Canterbury; stated their opinion to be that missionary bishops appointed to exercise episcopal functions beyond the limits of her Majesty's dominions can be lawfully consecrated in this country, but that bishops so consecrated must not assume the status, style, dignity of bishops while in her Majesty's dominions. At the same time they thought that such consecration in this country ought to be discouraged and deprecated.

The Disputed Guardianship of the Marquis of Bute.—In consequence of the injunction granted by Vice-Chancellor Stuart against Colonel Stuart, restraining him from prosecuting any further proceedings in Scotland relative to the Marquis of Bute, Lady Elizabeth Moore presented a petition to the Court of Session, praying that court to appoint a tutor *ad litem* to represent and protect the interests of the pupil in so far as they are affected by proceedings under the petition of General Stuart. The petition stated that this step was the more called for as notices of appeal to the House of Lords had been given by parties both in the Court of Chancery and Court of Session. On receiving Lady E. Moore's petition, the Court of Session appointed Colonel Stuart, tutor-at-law, to lodge a minute; and a minute was accordingly lodged, in which Colonel Stuart stated that he had been advised that he was not prevented by the injunction of the Vice-Chancellor from appearing in the House of Lords, and defending there the judgments of the Court of Session, and that it was his intention to carry the judgment of the Vice-Chancellor by appeal to the House of Lords. In these circumstances the Court of Session on Tuesday refused the motion of Lady Elizabeth Moore, in respect of the statement the tutor-at-law had made.

International Copyright.—A convention with Sardinia, signed on the 30th of November, and of which the ratifications were exchanged on the 4th of January, has been laid before Parliament. It provides for an international copyright in works of literature or art published in either country—terms which are to comprise publications of books, of dramatic works, of musical compositions, of drawing, of painting, of sculpture, of engraving, of lithography, and of any other works whatsoever of literature and of the fine arts. Besides original works, a translator is to be protected in respect of his own translation. The author of a work is to have for five years the exclusive right of translation, if exercised within a certain period. These stipulations are to apply also to the representation of dramatic works and the performance of musical compositions; but fair imitations or adaptations of dramatic works to the stage of the respective countries are not prohibited, but only piratical translations. Articles from newspapers or periodicals may be published or translated in the newspapers or periodicals of the other country, provided the source is acknowledged, unless (the article not being one of political discussion) the author in a conspicuous manner forbids the republication. Each country retains its right to prohibit, by measures of legislation or police, the circulation or exhibition of any work it may deem it expedient so to prohibit.

Property and Income Tax.—In England and Wales the property assessed in 1852, under the various schedules, amounted to £234,743,377, and in 1860 it had increased to £282,718,649.

Births, Marriage, and Deaths.

BIRTHS.

FRANCE—On Feb. 22, the wife of William S. France, Esq., Solicitor, Wigan, of a daughter.

LORD—On Feb. 23, the wife of James Lord, Esq., of the Inner Temple, Barrister-at-Law, of a son.

SHIPTON—On Feb. 18, at Clifton, the wife of F. Shipton, Esq., Solicitor, of a son.

SMITH—On Feb. 25, the wife of C. Manley Smith, Esq., of the Inner Temple, Barrister-at-Law, of a daughter.

MARRIAGE.

FINCHAM—ADAMS—On Dec. 20, at Hongkong, Alfred Fincham, Esq., of Canton, to Ann Maria, daughter of the Hon. W. H. Adams, Chief Justice of Hongkong.

DEATHS.

BRADLEY—On Feb. 27, aged 20, Henry, son of Henry Bradley, Esq., of Harcourt-buildings, Temple.

GALBRAITH—On Feb. 24, at Stirling, in his 70th year, William Galbraith, Esq., Town Clerk of Stirling.

JENNINGS—On Feb. 23, Charles Thomas, son of E. B. Jennings, Esq., Solicitor, Burton-on-Trent, aged two years.

WILTON—On Feb. 3, aged 71, Henry Wilton, Esq., Solicitor, formerly of Gloucester.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

Bennett, Charlotte, Spinster, Henley-on-Thames, since wife of Robert Giles, Gent., Burton-street, Burton-crescent, £25 Reduced 3 per Cents. Claimed by Charlotte Barnes (formerly Giles, spinster), wife of Thomas John Barnes, the administratrix of the said Charlotte Giles, formerly Bennett, spinster.

Cust, Margaret Frances Amy, Spinster, Leasome Castle, County of Chester, £380 6s. 4d. Consols.—Claimed by Margaret Frances Amy Egerton, wife of Captain Charles Randle Egerton, formerly Margaret Frances Amy Cust, Spinster.

Fletcher, Joseph, Ship-builder, Shadwell-dock, Henry Watson, Esq., Beckingham, Notts, and Gervas King Holmes, Esq., East Retford, Notts, £2,205 Consols.—Claimed by Henry Watson and Gervase King Holmes, the survivors.

Gilbert, John, Gent., Ringwood, Hants, £148 9s. 1d. New 3 per Cents. Claimed by George Vincent Forder, the administrator de bonis non.

Newton, John, Gent., Stone, parish of Bridestow, Devonshire, £2,100 New 4 per Cents.—Claimed by John Gubbins Newton, administrator de bonis non of the said John Newton.

Phipps, Hon. Augustus, late of the Excise Office, £2,900 New 4 per Cents.—Claimed by Colonel Edward Fitz-Gerald, the surviving executor of Sir Robert Greenhill Russell, Bart., who was the surviving executor of the said Augustus Phipps.

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes *and elsewhere.*

Bull, William, who was the brother of James Bull, late of Market Deeping, in the county of Lincoln. Next of kin to apply to Messrs. Sharpe and Son, Solicitors, Market Deeping.

Wakerley, Elizabeth (formerly Elizabeth Bissill), who was some years since living at Grantham, or her next of kin to apply to Messrs. Thos. G. Morley, Solicitor, Thurland-street, Nottingham.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

English Funds.		Shrs.	Railways—*Continued.*	
Bank Stock	232½	Stock	Ditto A. Stock	99½
3 per Cent. Red. Ann.	91½	Stock	Ditto B. Stock	133
3 per Cent. Cons. Ann.	91½	Stock	Great Western	67½
New 3 per Cent. Ann.	91½	Stock	Lancash. & Yorkshire	109½
New 2½ per Cent. Ann.	..	Stock	London and Blackwall.	61
Consols for account	91⅞	Stock	Lon. Brighton & S. Coast	114½
India Debentures, 1858.	..	25	Lon. Chatham & Dover	42½
Ditto 1859.	..	Stock	London and N.-Wstrn.	96½
India Stock	..	Stock	London & S.-Westrn.	91
India 5 per Cent. 1859.	..	Stock	Man. Sheff. & Lincoln.	45½
India Bonds (£1000)	..	Stock	Midland	126½
Do. (under £1000)	..	Stock	Ditto Birm. & Derby	108
Exch. Bills (£1000)	par.	Stock	Norfolk	84
Ditto (£500)	dis.	Stock	North British	63½
Ditto (Small)	dis.	Stock	North-Eastn. (Brwck.)	99½
		Stock	Ditto Leeds	86½
Railway Stock.		Stock	Ditto York	87½
		Stock	North London	101
		Stock	Oxford, Worcester, & Wolverhampton	..
Stock Birk. Lan. & Ch. June.	82			
Stock Bristol and Exeter	101	Stock	Shropshire Union	31
Stock Cornwall	6½	Stock	South Devon	41
Stock East Anglian	16	Stock	South-Eastern	85½
Stock Eastern Counties	48½	Stock	South Wales	22
Stock Eastern Union A. Stock	39	Stock	S. Yorkshire & R. Dun	95
Stock Ditto B. Stock	28	25	Stockton & Darlington	40½
Stock Great Northern	108	Stock	Vale of Neath	60

London Gazettes.

Professional Partnerships Dissolved.

Tuesday, Feb. 26, 1861.

Parker, Robert Tucker, & Richard Parker, Solicitors & Attorneys, Axbridge, Somersetshire, by mutual consent. Feb. 11.

Snowdon, Henry, & William H. Emmet, Attorneys & Solicitors, Leeds, by mutual consent (Snowdon & Emmet). Feb. 22.

Temple, William Woods, & William Windsor, Attorneys & Solicitors, 4, Blomfield-street, London, by mutual consent (Temple & Windsor). Feb. 23.

Friday, March 1, 1861.

Busfeild, Johnson Atkinson, George Gladstone Macturk, & William Busfeild, Attorneys & Solicitors, Bradford (Busfeild, Macturk, & Busfeild), by mutual consent, so far as relates to George Gladstone Macturk. Feb. 25.

Windings-up of Joint Stock Companies.

Limited in Bankruptcy.

Tuesday, Feb. 26, 1861.

Llanfyrnach Silver Lead Mining Company, Limited.—Petition to wind up, presented Feb. 16, will be heard before Commissioner Goulburn,

Basinghall-street, on March 7, at 1.30. Walker, Wolverhampton, Solicitor: Hawksford, 37, Essex-street, Strand, Agent.

UNION DISCOUNT COMPANY (LIMITED).—Order to wind up on Feb. 12, before Commissioner Holroyd, Basinghall-street. Sam day W. Bell, Coleman-street-buildings, London, was appointed official liquidator. Creditors to prove their debts.

FRIDAY, March 1, 1861.

MEXICAN & SOUTH AMERICAN COMPANY.—The Master of the Rolls will, on March 13, at 2, proceed to make a call for £11 5s. per share on the several contributories upon whom no call has hitherto been made.

LIMITED IN BANKRUPTCY.

FRIDAY, March 1, 1861.

GENERAL STEAM PRINTING AND PUBLISHING COMPANY (LIMITED).—Creditors to prove their claims on March 22, at 11, Basinghall-street, before Commissioner Holroyd.

LITTLE DOWN AND EBBER ROCKS MINERAL AND MINING COMPANY (LIMITED). Commissioner Holroyd has peremptorily ordered that a call of 17s. 6d. per share be made on the several contributories of the company, to be paid to Mr. Charles Lee, Official Liquidator, 20, Aldermanbury.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Feb. 26, 1861.

ADDINGTON, JOHN, Esq., Weeting Hall, Norfolk, and of Woodlands, Blackheath, Kent. Stuart & Baly, Solicitors, 6, Gray's Inn-square, London. May 31.

BEAR, JOSEPH, Maltster, Wakefield. Janson & Banks, Solicitors, Barstonsquare, Wakefield. May 1.

CUDLER, JOHN, Ironmonger, Scarborough. Hesp & Moody, Solicitors, Scarborough. April 5.

CARTER, GEORGE, Upholsterer, 10, Marylebone-street, Regent-street, Middlesex. R. & C. H. Hodgson, Solicitors, 10, Salisbury-street, Strand. May 30.

CROCANEN, SARAH, Widow, 19, Cross-street, Islington, Middlesex. Carew, Solicitor, 45, Bloomsbury-square, London. March 22.

GOLLING, THOMAS, Gent., Nottingham. Morley, Solicitor, Thurland-street, Nottingham. April 10.

GROVE, PHŒBE, Widow. Spread Eagle, Lower Kennington-lane, Lambeth, Surrey. Kempster, Solicitor, 1, Portsmouth-place, Lower Kennington-lane, Lambeth. April 2.

HARTLEY, CATHERINE ELIZABETH, Widow, Pendle-place, Deptford. Kinsey, Solicitor, 9, Bloomsbury-place, London. April 25.

HOGGARTH, DANBY, Farmer, Ebberston, Yorkshire. Hesp & Moody, Solicitors, Scarborough. April 5.

HUNT, ANN, Widow, Bearley, Warwickshire. Hobbes & Slatter, Solicitors, Stratford-upon-Avon. April 2.

MARKLAND, RALPH, Cornfactor, Brunswick-place, Leeds. Markland, Solicitor, Albion-street, Leeds. May 1.

MYER, JOHN, Engineer, 86, Aughton-street, Everton, near Liverpool. Jones, Solicitor, 56, Castle-street, Liverpool. June 1.

PRATT, JAMES BRACHT, Merchant, Birmingham, and of Lea Hall, Handsworth, Staffordshire. Tyndall, Son, & Johnson, Solicitors, 64, Little Charles-street, Birmingham. April 28.

ROCHESDOR, HORNBY, Esq., Foxghyll, near Ambleside, Westmoreland. G. & W. Hartley, Solicitors, Settle, Yorkshire. April 2.

WOODLEY, THOMAS STAMFORD, Gent., Grocer and Tea Dealer, formerly of Cambridge, and late of Lawn-villa, Brixton, Surrey. Taylor, Solicitor, Bishop Stortford, Herts. April 6.

FRIDAY, March 1, 1861.

BENYATYNE, GEORGE AUGUSTUS, Esq., Bathford, Somersetshire. F. & E. Dowding & Burne, Solicitors, 15, Vine-yards, Bath. April 25.

BENJAMIN, CHARLES, Mr., Coal Merchant, Bath. Stone, Chamberlayne, & King, Solicitors, 13, Queen-street, Bath. May 27.

BROOKE, ROBERT ARTHUR, Esq., Lieutenant in the 11th Hussars, 4, Royal-crescent, Bath, and 34, Upper Harley-street, London. H. U. & N. Coulthurst, Solicitors, 12, New-inn, London. May 29.

BYRON, Right Hon. Anne Isabella Baroness NOEL, St. George's-terrace, Middlesex. Wharton & Fords, Solicitors, 5, Lincoln's-inn-fields. April 20.

CHAPMAN, CHARLOTTE CAROLINE, 13, Craven-place, Old Kent-road, Surrey (but formerly of Knockholt, Kent). J. & W. Butler, Solicitors, 191, Tooley-street, London-bridge. April 20.

FEWWICK, JAMES FOSTER, Merchant, Cardiff. Ingledew & Daggett, Solicitors, 3, Powell-place, Bute street, Cardiff. June 1.

FISH, ANN, Widow, Harlow, Essex. Merriman, Solicitor, 35, Austin-friars, London. April 10.

HARRISON, JOHN, Horsebreaker, Cottingham, Yorkshire. Gresham, Solicitor, 17, Parliament-street, Kingston-upon-Hull. May 1.

HAYNES, ANN, 23, Sharp's-alley, Cow-cross, Middlesex. Berkeley, Solicitor, 12, Gray's-inn-square. March 23.

HEDGES, JOHN, Carpenter, 10, Salisbury-street, Agar-town, Camden-town, Middlesex. Berkeley, Solicitor, 12, Gray's-inn-square. March 23.

JENKINS, JOSEPH RICHARD, Gent., formerly of Bishopgate Without, London, then of 28B, Devonshire-street, Portland-place, Middlesex, afterwards of Towcester, Northampton, and late of St. Thomas's-square, Hackney, Middlesex. Harris & Mee, Solicitor, Bishopgate Churchyard, London. April 5.

LANE, GRACE, Spinster, formerly of Phœnix-row, Blackfriars'-road, afterwards of 187, Blackfriars-road, same county. Boulton, Solicitor, 17, Berners-street, Oxford-street. March 19.

MACDONALD, FRANCES MARIA, Widow, Cheltenham. Braikenridge & Sons, Solicitors, 16, Bartlett's-buildings, London.

MASON, RICHARD, Agent, York-place, Wakefield. Whitham, Solicitor, Wakefield. July 1.

MEAGOR, HENRY, Tailor, 94, Lower Brook-street, Grosvenor-square, Middlesex. Dobinson & Geare, Solicitors, 67, Lincoln's-inn-fields, Middlesex. April 15.

MORRIS, EVANS, Gent., Manchester. Gibson, Solicitor, 41, John Dalton-street, Manchester. April 26.

USHER, THOMAS DIXON, Esq., formerly of Suffolk-street, Pall Mall East, but late of Southend House, Bury St. Edmunds, Suffolk. Harrison, Beal, & Harrison, Solicitors, 19, Bedford-row, London. April 25.

WELSH, GENERAL JAMES, 10, North-parade, Bath. F. & E. Dowding & Burne, Solicitors, 15, Vineyards, Bath. April 25.

YOUNG, HEBE, Spinster, 15, Bayham-street, Camden-town, Middlesex. Tanqueray, Willaume, & Hanbury, Solicitors, 34, New Broad-street, London. April 12.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Feb. 26, 1861.

BEDBOROUGH, JAMES THOMAS, Gent., New Windsor, Berks. Bedborough v. Bedborough, M. R. April 10.

CAUSTON, ANNE THEODOSIA, Spinster, formerly of Bournemouth, Hants, and late of Charlton, Gloucestershire. Elwes v. Causton, M. R. April 10.

GREENOUGH, RALPH, Esq., late of Southport, Lancaster, but formerly of Wigan, Lancaster. Turner v. Greenough, M. R. March 27.

HARVEY, CLEMENTINA PICKET, otherwise ISHERWOOD, Spinster, Tetbury, Gloucestershire. Bulley v. Thompson. M. R. March 15.

MARSANO, BARTHOLOMEW, Merchant, Thanet-place, Middlesex. Wilkinson v. Marsano and Lowe v. Polhill, M. R. March 21.

RIDDALL, WILLIAM, Lighterman, 1, Old King-street, St. Paul, Deptford, Kent. Anderson v. Riddall, M. R. April 10.

FRIDAY, March 1, 1861.

ALLISON, JOSEPH, Seaman in Her Majesty's Navy, 7, Haberdasher's-walk, Hoxton, Middlesex. Allison v. Allison, V.C. Wood. March 22.

CURWEN, HENRY, Esq., Workington-hall, Cumberland. Dobinson v. Curwen, M.R. April 10.

JACKSON, THOMAS, Cheesemonger, 8, Albion-place, Hyde Park-square. Jackson v. Hollis, V.C. Stuart. March 15.

JARVIS, SAMUEL, Farmer, Meppershall, Bedfordshire. Howes v. Jarvis, V.C. Stuart. March 16.

OXLEY, JOHN, Farmer, Orgreave, Rotherham, Yorkshire. Gould v. Oxley, V.C. Stuart. March 23.

PERRION, JAMES, Esq., Maida-hill West, Middlesex. Pulman v. Archer, V.C. Stuart. March 27.

SUBSH, LEWIS, Licensed Victualler, Gloucester Arms, Gloucester-crescent, Hyde-park, Middlesex. Pugh v. Nicholson, V.C. Stuart. April 9.

WOOD, CHARLES, Esq., Chorley, Lancashire. Warburton v. Wood, V.C. Stuart. April 8.

Assignments for Benefit of Creditors.

TUESDAY, Feb. 26, 1861.

BARBER, GEORGE, Ironmonger, Eye, Suffolk. *Sols.* Druce & Sons, 10, Billiter-square, London. Feb. 4.

BENNETT, WILLIAM, Grocer & Baker, Burnham, Bucks. *Sol.* Woolls, Uxbridge. Feb. 1.

CLARK, WILLIAM, Jun., Timber Merchant, Southwark Bridge-road, Surrey. *Sols.* Wootton & Son, 10, Tokenhouse-yard. Feb. 16.

GOODMAN, THOMAS, Boot & Shoe Maker, 194, Commercial-road, Landport Portsea, Southampton. *Sol.* T. Cousins, Jun., Portsea. Feb. 19.

HANDS, GEORGE TAYLOR, & HENRY WELCH, Printers & Stationers, Camelford, Cornwall. *Sol.* King, Camelford. Feb. 14.

HUGHES, THOMAS, Grocer & Flour Dealer, Swansea, Glamorganshire. *Sol.* Essery, Swansea. Feb. 12.

HUGO, RICHARD, Mine Share Dealer, Camborne, Cornwall. *Sol.* Downing, Redruth, Cornwall. Feb. 19.

JAMISON, ROBERT, & THOMAS FOSKETT, Tailors & Drapers, New Bond-street, Middlesex. *Sols.* Mason, Stuart, & Mason, 7, Gresham-street, London. Feb. 12.

LYNN, JAMES ROBERT, & HENRY FRANCIS GOUGH, Printers, 316, Strand, Middlesex, and St. Mary's-terrace, Camberwell, Surrey. *Sol.* Jones, 5, New Inn, Strand, London. Jan. 31.

NEVINS, JOHN, Currier, Newcastle-upon-Tyne. *Sol.* Joel, Newcastle-upon-Tyne. Feb. 2.

ROBINSON, THOMAS RICHARD, Silk Mercer & Draper, Wetherby, Yorkshire. *Sol.* Lumley, Tadcaster. Feb. 15.

ROUTLY, JAMES, Blacksmith & Farmer, Sutcombe, Devonshire. *Sol.* Kingdon, Holsworthy, Devonshire. Jan. 26.

SENIOR, JAMES, Draper, Wigan. *Sols.* Halton & Brett, 47, New Bailey-street, Salford. Jan. 31.

SMITH, GEORGE, Ironmonger, Commercial-road, Landport, Portsea, Hants *Sol.* Jones, 5, New-inn, Strand, London. Jan. 29.

Wait, George John, Paper Merchant, Gloucester. *Sol.* Prideaux, Albion Chambers, Bristol. Feb. 5.

Wells, Thomas, Watchmaker and Jeweller and Dealer in Cigars, 7, Market-street, Cambridge. *Sol.* Harris, 34a, Moorgate-street, London. Feb. 7.

Friday, March 1, 1861.

Beilby, Charles Henry, & Henry Mottram, Seed Crushers, Kingston upon-Hull (Beilby & Co.). *Sols.* Holden & Sons, 2, Parliament-street, Kingston-upon-Hull. Feb. 23.

Copland, James Benjamin, Wine and Spirit Merchant, Manchester. *Sol.* Richardson, 22, Dickenson-street, Manchester. Feb. 22.

Davies, David Henry, Hosier, 6, George-street, Plymouth, Devonshire. *Sol.* Smith, 1, Frederick's-place, Old Jewry, London. Feb. 5.

Gray, William, Grocer, Kirby-within-the-Token, Essex. *Sol.* Nash, Ipswich. Feb. 2.

Hall, William, Grocer, Kingston-upon-Hull. *Sol.* Gale, Kingston-upon-Hull. Feb. 4.

Jackson, James, Auctioneer, Shipbroker, & Insurance Agent, Whitehaven. Cumberland. *Sols.* Lumb & Howson, 142, Queen-street, Whitehaven Feb. 23.

Knight, William, Tailor, Edward-street, Portman-square, Middlesex. *Sols.* Huson & Parker, 4, King-street, Cheapside, London. Feb. 5.

Osborne, Thomas, Brickmaker, Mapperley, Notts. *Sols.* Cowley & Everall, St. Peter's-church-walk, Nottingham. Feb. 6.

Pocock, Charles Thomas, Miller, Badbrook Mills, Stroud, Gloucestershire. *Sol.* Kearsey, Stroud. Feb. 11.

Row, Matthew, Painter & Gilder, Redruth, Cornwall. *Sol.* Downing. Redruth. Feb. 23.

Summers, Elizabeth, Widow, Long Eaton, Derbyshire. *Sol.* Shaw, Derby. Feb. 11.

Warrington, John, Farmer, Doncaster. *Sol.* Wright, 6, St. George's-gate, Doncaster. Feb. 20.

Bankrupts.

Tuesday, Feb. 26, 1861.

Barnsley, Joshua, Hay Dealer, & Cattle Dealer, South Wingfield, Derbyshire. *Com.* West: March 9, and April 13, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Stone, Wirksworth; or Smith & Burdekin, Sheffield. *Pet.* Feb. 16.

Bellingham, William Teale, Auctioneer, 27, Gresham-street, London. *Com.* Holroyd: March 8, and April 9, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Morris, 11, Beaufort-buildings, Strand. *Pet.* Feb. 22.

Botting, Edwin, Grocer, Brighton, Sussex. *Com.* Fonblanque: March 13, at 1; and April 10, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Smith, 13, Lawrence-lane, London. *Pet.* Feb. 20.

Brotherton, Francis, Innkeeper, Middlesborough, Yorkshire. *Com.* Ayrton: March 11, and April 15, at 11; Leeds. *Off. Ass.* Hope. *Sol.* Simpson, Yarm: or Cariss & Cudworth, Leeds. *Pet.* Feb. 25.

Carey, James, Boot & Shoe Maker, High-street, Tonbridge-wells, Kent. *Com.* Goulburn: March 8, and April 10, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Baynes, Carey-street, Lincoln's-inn, London; or Andrew, Tonbridge-wells. *Pet.* Jan. 25.

French, Isaac, Cheese Factor & Provision Merchant, Smithfield Market, Shudehill, Manchester. *Com.* Jemmett: March 12, and April 9, at 12 Manchester. *Off. Ass.* Hernaman. *Sol.* Leigh, 30, Brown-street, Manchester. *Pet.* Feb. 20.

Griffin, William, Anchor Maker & Smith, Cradley Heath, Rowley Regis, Staffordshire. *Com.* Sanders: March 11, and April 8, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Wright, Birmingham: or Homer, Brierley Hill. *Pet.* Feb. 21.

Hett, John Blumsom, Printseller, Stationer, Painter, Frame Maker, & Gilder, Cambridge. *Com.* Fonblanque: March 13, at 1.30: and April 10, at 1; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Tarrant, 2, Bond-court, Walbrook, London; or Whitehead & French, Cambridge. *Pet.* Feb. 25.

Moore, Thomas, Licensed Victualler and Dealer in Rags and Furniture, Antelope, George-street, St. Alban's, Hertford. *Com.* Holroyd: March 12, at 2.30; and April 12, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Angell, 23, King-street, Guildhall, London. *Pet.* Feb. 22.

Simpson, William David, Brickmaker, Crayford, Kent. *Com.* Fane: March 8, at 12.30; and April 11, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Bruton, 27, Basinghall-street. *Pet.* Feb. 18.

Westbury, James, Innkeeper & Publican, Gloucester. *Com.* Hill: March 11, and April 8, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Smallridge, Gloucester; or Bevan, Girling, and Press, Small-street, Bristol. *Pet.* Feb. 23.

Whittaker, John Smith, Cooper, Great Grimsby, Lincolnshire. *Com.* Ayrton: March 20, and April 10, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Toynbee, Lincoln. *Pet.* Feb. 21.

Friday, March 1, 1861.

Allcock, Joseph, jun., Miller, Ilford, Essex. *Com.* Evans: March 12 & April 4, at 1; Basinghall-street. *Off. Ass.* Bell. *Sols.* Mason, Sturt, & Mason, Gresham-street, or Longmore, Sworder, & Longmore, Hertford. *Pet.* Feb. 27.

Boddington, Carter, Worsted, Silk, & Cotton Dealer, 84, St. Martin's-lane, Westminster, Middlesex. *Com.* Fane: March 14, at 1, & April 12, at 11.30; Basinghall-street. *Off. Ass.* Cannan. *Sols.* De Jersey & Micklem, 13a, Gresham-street West. *Pet.* Feb. 26.

Buxton, Joseph, Drysalter & Wholesale Grocer, Manchester. *Com.* Jemmett: March 19 & April 9, at 12; Manchester. *Off. Ass* Fraser. *Sols.* Bellhouse & Bond, Princes-street, Manchester. *Pet.* Feb. 21.

Cail, Benjamin, Cowkeeper, late of Pavilion-place, Battersea, now Land Agent, Maidenhead, Berks. *Com.* Goulburn: March 11, at 11.30, & April 15, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Peckham, 40, Ludgate-street, London. *Pet.* Feb. 25.

Copestake, John, Engineer & Machinist, Derby. *Com.* Sanders: March 14, and April 4, at 11; Nottingham. *Off. Ass.* Harris. *Sols.* Middleton, Derby; or Cox, Derby. *Pet.* Feb. 23.

Fell, James, Tea Merchant, Liverpool. *Com.* Perry: March 8, and April 5, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Pemberton, Liverpool. *Pet.* Feb. 14.

Hunt, Edward, Hop Merchant, 6, Three Crown-square, Southwark, Surrey. *Com.* Fonblanque: March 13, and April 10, at 12.30; Basinghall-street. *Off. Ass.* Graham. *Sol.* King, 25, College-hill, Cannon-street West, London. *Pet.* Feb. 26.

Lock, John, Builder, 20, Barnsbury-grove, Islington, Middlesex. *Com.* Goulburn: March 13, at 1; and April 15, at 12.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Paterson, 3, Winchester-buildings, London. *Pet.* Feb. 27.

Lloyd, William Tommy, Miller, Llangunnidor, Breconshire. *Com.* Hill: March 12, and April 9, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Greenway & Bytheway, Pontypool; or Bevan, Girling, & Press, Bristol. *Pet.* Feb. 14.

Nixon, Alfred, Merchant & Commission Agent, Liverpool. *Com.* Perry: March 11, at 12; and April 5, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Yates, jun., Liverpool. *Pet.* Feb. 26.

Oxley, Robert, Maltster & Corn Dealer, Chippenham, Wiltshire. *Com.* Hill: March 11, and April 8, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Wilson, Salisbury; or Abbot, Lucas, & Leonard, Bristol. *Pet.* Feb. 20.

Roper, George, Builder, Bincombe, Dorsetshire. *Com.* Andrews: March 13, and April 11, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Tizard, Weymouth; or Turner & Hirtzel, Exeter. *Pet.* Feb. 28.

Smith, William, Mercer & Draper, Stoke-upon-Trent. *Com.* Sanders: March 15, and April 5, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Flint, Uttoxeter; or James & Knight, Birmingham. *Pet.* Feb. 26.

Wood, Stanley James, Cement Manufacturer, Millwall, Middlesex. *Com.* Fonblanque: March 13, and April 10, at 2; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Abrahams, 17, Gresham-street, London. *Pet.* Feb. 25.

BANKRUPTCY ANNULLED.

Tuesday, Feb. 26, 1861.

Nicholson, John Mulcaster, and George Plummer, Cabinet Makers and Upholsterers, Manchester (John Nicholson & Co.) Feb. 21.

Friday, March 1, 1861.

Pike, Robert George, Grocer, Week-street, Maidstone, Kent. Jan. 16.

MEETINGS FOR PROOF OF DEBTS.

Tuesday, Feb. 26, 1861.

Durrant, Robert, & George Brock, Tallow Chandlers & Soap Manufacturers, St. Michael, at Coslany, Norwich. March 21, at 11.30; Basinghall-street.—Fenton, Thomas Joshua, Wine Merchant, 46, Lime-street, London, and 24, St. Mary-le-Strand-place, Old Kent-road, Surrey. March 19, at 11.30; Basinghall-street.—Hart, John, Boot & Shoe Manufacturer, 8, Crown-street, Finsbury, Middlesex. March 21, at 12; Basinghall-street.—Hood, Christopher, & John Nixon, Elastic Web Manufacturers, Nuneaton, Warwickshire. March 13, at 11; Birmingham.—Leng, John, Licensed Victualler, Maltster, & Common Brewer, Bridlington Quay, East Riding, Yorkshire. March 20, at 12; Kingston-upon-Hull.—Read, John, Licensed Victualler, Tavern Keeper, & Dealer in Foreign Wines & Spirituous Liquors, 31, Hart-street, Bloomsbury. March 19, at 11; Basinghall-st.—Syers, Thomas, Tailor & Draper, Liverpool. March 22, at 11; Liverpool.—Welsh, William James, Coach Builder, Nantwich, Chester. March 22, at 11; Liverpool.—Wigdahl, Andrew, Ship and Insurance Broker, 73, Lower Thames-street, London. March 19, at 1; Basinghall-street.

Friday, March 1, 1861.

Beale, Miles, Iron & Brass Founder & Engineer, Saint Leonard's Iron works, Gray-street, Poplar, Middlesex. March 23, at 1; Basinghall-street.—Blackmore, James, Builder, Wellington, Somerset. March 27, at 11; Exeter.—Booker, Thomas, sen., and Thomas Booker, jun., Merchants, Mark-lane, London. March 23, at 12; Basinghall-street.—Bouchier, John, Dealer in Timber, Blackwell, Derby. March 23, at 10; Sheffield.—Dawson, Edwin, Music Seller, Sheffield. March 23, at 10.—Evans, William Nathaniel, & Robert Buncombe Evans, Tanners, Colyton, Devon. March 27, at 11; Exeter; joint estate. Same time, separate estate of Robert Buncombe Evans.—Gorbery, Thomas, Iron & Steel Merchant, Sheffield. March 23, at 10; Sheffield.—Grove, William, Licensed Victualler and Cab Proprietor, Spread Eagle Tavern, Kingsland-road, Middlesex. March 12, at 12; Basinghall-street.—Haylock, Henry, Cropley, Apothecary, Chemist, & Druggist, High-street, Linton, Cambridge. March 27, at 12.30; Basinghall-street.—Jaquemot, Jean Mar, Francois, Silk & General Merchant, 38, New Broad-street, London. March 22, at 12; Basinghall-street.—Jones, Thomas, Victualler, 3, Mare Fair, Northampton. March 23, at 1; Basinghall-street.—Lord, John, Sidney Aquila Butterworth, & Horatio Butterworth, Dyers, Shelf, near Halifax, York. March 22, at 11; Leeds.—Mabe, George, Miller, Newcastle-under-Lyme, Stafford. March 26, at 11; Birmingham.—Martin, John, Innkeeper & Provision Dealer, Daisy Bank, Sedgley, Stafford. March 26, at 11; Birmingham.—Palmer, Thomas & Samuel Palmer, Drapers, 30, Old Town-street, Plymouth. March 26, at 12.30; Plymouth.—Parris, Henry, Machine Maker, Bridport. March 14, at 12; Exeter.—Rolls, John James, Grocer & Ironmonger, Cerne Abbas, Dorset. March 27, at 11; Exeter.—Rose, John, Draper, Truro, Cornwall. March 27, at 11; Exeter.—Syers, Morgan Roberts, James Walker, & Daniel Backhouse Syers. March 26, at 11.30; Basinghall-street.—Whitaker, John Crotherston, Card & Pasteboard Maker, 13 & 14, Little Britain, London. March 23, at 12, Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** *Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 9, 1861.

CURRENT TOPICS.

On Thursday evening there was an animated discussion in the House of Lords upon the intentions of the Government in appointing commissioners to inquire into the constitution of the Accountant-General's department of the Court of Chancery, and the provisions for the custody and management of the funds of the court. Elsewhere in our columns will be found as good a report as the conversational tone in which the discussion was carried on permitted. A notion appears to have got abroad that the commission is designed to prepare the way for the appropriation of the Suitors' Fee Fund for the New Palace of Justice. But it seems clear enough if the scope of the commission is at all indicated by its title that this notion must be erroneous. The Government, no doubt, considers that the report of the concentration of courts commissioners is amply sufficient to justify the introduction to Parliament of a measure to carry out their urgent recommendations; and we hope there will be as little delay as possible in introducing the Bill for this purpose. The new commission, however, as we understand its object, is simply confined to inquiries as to the banking and financial arrangements of the Court of Chancery. But we hope that either the general scope of the commission will be extended so as to embrace at least the superior courts at common law, or that a new commission may before long be appointed to enter upon the entire subject of legal taxation and of the financial arrangements of all our tribunals, not excluding county and local courts.

The Lord Chancellor's Bill to extend the jurisdiction and to improve the practice of the Court of Admiralty has been read a second time in the House of Lords. The business of the Court has of late increased so much that it has certainly become desirable to adapt the practice to its modern exigencies. Lord Campbell's Bill proposes to extend the jurisdiction of the Court in respect of claims for building, equipping, or repairing ships; for necessaries; for damage to cargo imported, and by any ship or barge; for salvage of life; and for wages and disbursements. It is also proposed that the Court shall have jurisdiction over any claim in respect of any mortgage registered under the Merchant Shipping Act 1854, whether the ship is under arrest of the Court or not; and that the Court shall have the same powers as are conferred upon the Court of Chancery by that Act. Several of the provisions of the Common Law Procedure Act 1852 are also incorporated in the Bill. When the measure was discussed in the House of Lords upon the second reading, it appeared to be generally conceded that it was not desirable to introduce a jury in place of the Trinity Brethren into the trial of Admiralty causes; but a lively debate arose upon the question of appeal. The Bill contains a clause giving a power of appeal in interlocutory matters, and another clause disallowing any appeal except upon a question of law. The general opinion of the law lords, however, seemed to be that the latter clauses should be struck out, inasmuch as there would frequently be considerable difficulty in separating questions of law. The Lord Chancellor, therefore, expressed his intention of moving in committee that the clause in question be struck out.

We learn from a recent Jamaica paper that a Bill has been introduced into the House of Assembly for the purpose of extending the provisions of the West India Incumbered Estates Act to that important colony. The measure it is said is likely to pass without serious opposition.

On Wednesday last the Inns of Court Volunteers, at a meeting of their body in Lincoln's-inn Hall, presented their commander, Lieutenant Colonel Brewster, with a valuable piece of plate in testimony of their appreciation of his generous devotion to his work and gentlemanly conduct as their commanding officer.

THE YELVERTON CASE.

Public interest in this extraordinary case seems to have been pretty evenly divided between the evidence of the defendant and the speech of the plaintiff's counsel in reply. One of the greatest efforts of forensic eloquence, and one of the most offensive pictures of licentious conduct, commanded for the newspapers which respectively reported them an equal and almost illimitable sale. The whole series of these records may be obtained without any difficulty, except the highest flight of intellect and the basest descent of wickedness which they comprise. It seems that the aristocratic readers of the *Morning Post*, and the humble students of the penny papers, have confessed during the past week the power of that nature which makes the whole world kin. In the upper classes, however, Mr. Whiteside's speech and Major Yelverton's examination have been perused with equal eagerness, while the taste of lower life is thought by experienced judges to be best consulted by compressing the flow of oratory, and giving full space to the correspondence and to the description of the alleged scene on board the steamer in the Black Sea.

The advisers of Mrs. Yelverton have done well to lay the scene of the late legal drama beyond the Channel. The impressible Irish nation was peculiarly well adapted to feel and to excite sympathy with this lady's wrongs, and to declare the vindication of her character in tones which will resound throughout the world and to the end of time. Perhaps a more difficult and painful duty was never imposed upon an advocate than that of cross-examining Mrs. Yelverton, and of contending against the sympathy in her behalf, which probably possessed the adverse counsel quite as strongly as the spectators or the crowd outside the court. Upon the view of the defendant's conduct which was necessary to support a verdict in his favour, he abused the hospitality of a distinguished officer; he committed deliberate seduction; and he profaned a sacrament of the Roman Catholic Church. Further, he had written a letter which it was quite impossible to explain in any other way than as an attempt to persuade the victim of his lust to destroy the life of the child with which she was then pregnant. The most able and determined counsel might well feel overweighted with the burden which was thus imposed upon him; whereas the admitted facts on the other side were such as men at least are disposed to treat with tenderness. The most severe moralist of the male sex would scarcely say that flirtation on board steamboats leads by any necessary course of consequences to perjury. On the plaintiff's side there was, indeed, abundant room for the employment of all the skill of advocacy, but Mrs. Yelverton's character was not—like the defendant's—damaged by her own admissions beyond the possibility of effectual repair.

The questions of fact which had to be decided in this ten days' trial were really only two. The first was, whether a Scotch marriage took place in April, 1857. If that question were answered in the affirmative the case would be at an end. If it were answered in the

negative, a further question would arise as to the validity of the Irish marriage in the month of July following. The fact of a marriage ceremony having taken place in Ireland was not disputed; but its efficacy depended upon the question what religion the defendant professed at the time of its celebration, and this, therefore, was the second important question in the cause. The voluminous correspondence, the conduct of the parties in England, in the Mediterranean, and in the Crimea, and even those portions of the case which have created such an insatiable demand for newspapers, were only material to the main issue in the cause in so far as they could assist the jury in determining to which side they would impute the guilt of perjury. The statute of Geo. 2, which affected the validity of the Irish ceremony, enacts that every marriage celebrated by a Roman Catholic priest between a Papist and any person who is a Protestant, or who professes himself to be such within twelve months before the marriage, shall be null and void. It may be thought that the religion of such a person as Major Yelverton—taking him according to his own description of his conduct—would be impalpable. He had attended Protestant worship with his regiment, and he had accompanied the lady who claimed to be his wife to mass. If he told the priest who read the service, as he swore he did, that he was a Protestant Catholic, we are inclined to think that, for once, he made a statement which may be accepted as an approach to truth. He was, probably, just as much, or as little, of one as of the other; and it seems rather absurd to institute an inquiry into the religion of a man who avowedly trampled on honour and morality. And yet some force must be given to the statute. If Major Yelverton is to be taken to be a Catholic because he submitted to be married by a Catholic priest, the statute becomes a dead letter. But how, it may be asked, can a man of full age and irregular life profess himself to be a Protestant? Of course, if he be an Irishman at home, he may keep the anniversary of the Boyne. But an officer serving with his regiment would be under the necessity of repressing such manifestations of religious feeling, even if he happened to be disposed to indulge in them. So long as a youth resides with his parents, he may be taken, in the absence of evidence to the contrary, to be of their religion; and even after he has been emancipated, it would probably be the safest, if not the only obvious course, to follow the same rule. But the family of Major Yelverton are notoriously Protestant, because one of his ancestors sat upon the Irish Bench at a time when it was accessible only to professors of the dominant faith. The Chief Justice told the jury that "if the defendant took this woman to be his wife, and represented to her and to the priest that he was a Catholic, it would be strong evidence indeed that such was his religion." As we have not heard the thrilling tones of Mrs. Yelverton's voice, nor witnessed her fascinating deportment, we find it possible to entertain a doubt whether this direction is satisfactory. There surely cannot be any force in the first condition stated by the learned judge—"if the defendant took this woman to be his wife;" nor, indeed, does it appear to have any particular meaning, unless it be this, "if the defendant married a Catholic;" whereas, if the lady were not a Catholic, the statute would have no application to the case. The second condition—"if he represented to the priest that he was a Catholic"—may be sufficient to satisfy reasonable minds; but does it satisfy the statute? Supposing the evidence which went to prove such a representation to have been sufficient, it was quite consistent with it that Major Yelverton may have professed himself a Protestant within twelve months. Indeed, it is quite possible that the framers of this statute may have had in view the case of an ardent lover, a son of a noble Protestant house, who might be persuaded by some clever, accomplished, artful woman, of inferior birth and Romish faith, to renounce the religion of his family for the sake of a speedy union with her fascinating self. Of course, we do not say that it is expedient to enact such laws, but while such laws exist it is the duty of courts of justice to give effect to them, even after gazing upon Mrs. Yelverton and listening to Mr. Whiteside. The importance of the difficulty we have suggested is, however, very much lessened, if not got rid of altogether, by the previous finding of the jury, that there was a good Scotch marriage. It may be taken as established by sufficient evidence that the parties read together the marriage service out of a Prayer-Book, and that this proceeding, although there were no witnesses of it, constitutes by the law of Scotland a valid marriage. Still it must be owned that the dissatisfaction felt by Mrs. Yelverton with this ceremony does not seem wholly groundless; and the remark is obvious, at least to those who are not infected by the excitement of an Irish court, that two invalid marriages are not equal to a single valid one.

We think there can be no doubt where the substantial justice of this case lies, and we should learn with regret that there was any sound legal objection to the verdict which has been received with universal acclamation. Of the talents of the advocate and of the client, as displayed in Mr. Whiteside's reply, and in the letters on which he commented, it is impossible to speak in terms of exaggerated praise. We are beyond the enchantment of the lady's look and manner, but that of her style is undeniable. A woman so gifted would have been thrown away, even if she had been quietly married to Major Yelverton. How much more lamentable is the sacrifice which has been made of spirit, of talent, and of the capacity for conferring and receiving happiness through the disastrous issue of an imprudent and misplaced love! Never was there a case better adapted to excite sympathy; and seldom has an opportunity been used to better advantage than by Mr. Whiteside.

CHANCERY PRACTICE.—APPEARANCES TO AMENDED BILLS.

The practice regulating the entry of appearances to amended bills is frequently very perplexing to the practitioner, and involves, we think, unnecessary expense. We refer to the entry of appearances to amended bills by parties who have previously appeared in the cause. The requirements of the practice are correctly stated in "Braithwaite's Record and Writ Practice," p. 329; and it appears from that work that the entry of an appearance to an amended bill by such parties is required in the following cases, viz.:—

1. Where a defendant, although having appeared to and answered the original bill, is required to answer the amended bill.

2. Where a defendant who was not required to answer the original bill, and whether he has voluntarily answered such bill or not, is required to answer the amended bill.

3. Where, after a demurrer has been allowed, the plaintiff amends the bill, and requires an answer to it.

4. Where a defendant is required to answer exceptions and amendments at the same time, and the plaintiff *files a new set of interrogatories* for the examination of the defendant in answer to such amendments.

Such being the practice it frequently happens that a defendant is required to enter several formal appearances in the same cause, and that instead of serving *one* stamped copy only of an amended bill upon each solicitor in the cause—as in the case where no answer is required to the amendments—the plaintiff is required to serve a stamped copy for each defendant. We think that an appearance might, in the cases mentioned, be advantageously dispensed with, and that one formal appearance only need be required from a defendant in any cause. There are, however, other points of practice

closely connected with the point in question, and which must not be overlooked.

But first we remark that the entry of a formal appearance is required chiefly to signify the defendant's submission to the jurisdiction of the Court, and that the name and address of the defendant's solicitor, or of the defendant himself, if he appear in person, may be recorded, thereby facilitating the service of notices and other proceedings in the cause. But would not these purposes be sufficiently answered by the entry of *one* formal appearance, and of any change of solicitor or of address which may have occurred subsequently thereto?

There were good reasons for requiring the entry of an appearance to an amended bill under the practice which obtained previously to Michaelmas Term, 1852. Under that practice the defendant's time for answering could be limited only by the entry of an appearance, and his appearance could be enforced only by service of a subpœna. But the like reasons do not now exist, because the defendant's time for answering is now computed from the date of the delivery to him or to his solicitor of a copy of the interrogatories which may have been filed for his examination.

The provisions of the practice with which the point in question is connected, and which at present lead to the requirement of the entry of more than one formal appearance by a party to a suit, are those which regulate the time for filing interrogatories, and for delivering copies thereof, for filing voluntary answers, and for demurring alone to a bill. The time upon the expiration of which a defendant, not required to answer, may obtain an order for the plaintiff to make his election in which court he will proceed, may also be included, especially if rule 7 of Order 42, of the Consolidated General Orders, p. 151, be applicable as well to *amended* as to original bills. By rule 2 of Order 11 of the Consolidated General Orders, p. 46, a plaintiff desiring an answer from a defendant is required to file interrogatories for that purpose within eight days after the time limited for the defendant's appearance (and such time can only be limited by serving an endorsed copy of the bill); and after that time, under rule 3 of the same Order, special leave of the Court must be applied for. By rules 4 and 5 of Order 11, p. 47, the time within which the plaintiff is required to deliver a copy of the interrogatories is regulated by the entry of an appearance by the defendant. The time within which voluntary answers to bills are to be filed is regulated by rules 5 and 7 of Order 37, pp. 120 and 121, in combination with rules 4 and 5 of Order 11 before referred to, and can only be determined, under the last-mentioned rules, by the entry of an appearance*—the time for demurring alone to a bill is, under rule 3 of Order 37, p. 120, computed from the date of the entry of an appearance,—and the time upon the expiration of which a defendant, not required to answer, may obtain an order for the plaintiff to make his election in which court he will proceed is regulated by rule 7 of Order 42, p. 151, which rule is dependent, in its construction, upon rules 4 and 5 of Order 11.

It may be observed that the foregoing provisions of the practice are applied alike to original and amended and supplemental bills; and the question is, how can our suggestion be adopted, and the harmony of the practice be preserved? Our proposal is, that a plaintiff desiring an answer from a defendant to any bill—whether an original, or amended, or supplemental, or other bill—be required to file the interrogatories within a limited time after filing or amending the bill, and, after that time, by special leave of the Court—and that he be required to deliver a copy of the interrogatories to the defendant, or to his solicitor, within a limited time after service of the bill—and that a defendant voluntarily answering, or demurring alone to a bill, or obtaining an order for the plaintiff to make his election in which court he will proceed (in cases where such order is obtainable by a defendant not required to answer), be required to file such answer or demurrer, or obtain such order, within a limited time after service of a copy of the bill. If this proposal be adopted, rules 2, 3, 4, and 5, of Order 11, rules 5 and 7 of Order 37, rule 3 of Order 37, and rule 7 of Order 42, may be abrogated; and thenceforth only *one* formal appearance need be entered, either by or for a defendant in any cause, and only *one* stamped (*unendorsed*) copy of an amended bill need be served upon each *solicitor* acting for the defendants in the cause.

With respect to suits commenced by special case, it may be remarked that the entry of appearances by the defendants (who are not under disability) being required merely to bind them to the statements agreed upon, and to signify their submission to the jurisdiction of the Court, we think that such purposes would be as adequately answered by one formal appearance as by several formal appearances. The remark is, however, almost superfluous, inasmuch as the proposed alteration with respect to suits commenced or carried on by bill, would, if adopted, operate, as a matter of course, in suits commenced by special case. For by sections 10 & 11 of the Act 13 & 14 Vict. c. 35, it is provided that parties named as defendants to a special case, shall appear thereto "in like manner as defendants appear to bills." See also section 32 of the same Act.

The principle involved in our suggestion has, indeed, been already recognised, and the practice established—though to a limited and imperfect extent only. In *Ward* v. *Cartwright*, 10 Hare App. 73, the Vice-Chancellor Wood, after conferring with some of the other judges, decided—and the decision has hitherto regulated the practice—that an appearance need not be entered to an order to revive, or supplemental order for any defendant who has already appeared in the cause—and this, notwithstanding that the following words occur in the 52nd section of the Act, 15 & 16 Vict. c. 86, under which such orders are obtainable—"and such party or parties (the party or parties against whom the order to revive or supplemental order shall have been obtained) shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the Clerk of Records and Writs, within such time, and in like manner, as if he or they had been duly served with process to appear to a bill of revivor, or supplemental bill filed against him." The former practice always required that parties named as defendants to a bill of revivor or supplemental bill should enter appearances thereto, whether such defendants had previously appeared in the cause or not. But it seems to us that the decision, in the case referred to, is manifestly to the effect that an appearance is necessary only from persons who, by any such order, *become* parties to the suit—thus, as we have said, recognising the principle that only one formal appearance need be entered by or for a defendant in any cause.

EXONERATION OF MORTGAGED ESTATES.—THE ACT 17 & 18 VICT. c. 113.

The effect of the Act 17 & 18 Vict. c. 113 (Mr. Locke King's Act), upon mortgaged estates which have descended or been devised since the passing of the Act, is not so generally understood as it ought to be. A misconception has arisen from the use of the words "deed or document," which occur in the second proviso to the Act. The preamble of the Act shows that it was intended only to apply to cases of administration, and not to transactions *inter vivos;* and the changes which the enacting part of the Act introduces into the previous condition of the law are confined to a single and very simple point. Prior to the 1st of January 1855, the heir or devisee of a mortgaged estate was en-

* For a more full consideration of these rules see *ante*, p. 254.

titled to have the mortgage paid off out of the testator's personal estate, if such existed. The principle of this rule of law was based on the assumption that the personalty of the deceased owner was the portion of his property that was enhanced by the sum borrowed; and, therefore, the law considered that the personalty should be the fund primarily liable to the repayment of the loan. This assumption was, doubtless, as a general rule, warranted by the actual fact, although a mortgage was not unfrequently incurred in order to procure purchase-money for the identical estate which was bought. But whether the old rule of law was correct in its assumption of the generality of the facts upon which it was based or not, it was, at all events, very potent in defeating the most probable intentions of the mortgagor as to the distribution of his property after his death, as between his real and personal representatives.

Mr. Locke King's Act was to bring the law into harmony with the general intention of mortgagor-proprietors, without compelling them to defeat the old rule of law by express provisoes in their wills, which, indeed, might be framed in ignorance of the existing law of the marshalling of assets. All legislation approaches perfection in the degree in which it reconciles law to the common understanding of men, consistently with the certainty and other essential requisites of general rules. Mr. Locke King's Act aims at the former desideratum, but fails to realize its full merit in this respect by reason of a proviso which, as appears from the numerous communications which we have published on the subject, has occasioned difficulty as to a right view of the precise scope of the Act. While the preamble, then, confines the scope of the Act to cases of administration, the enacting clause is equally simple. It merely alters the rule of law that we have stated, and declares that the heir or devisee of a mortgaged estate shall, in future, hold it charged as the primary fund for payment, instead of the personalty, which can only be resorted to by the mortgagee, if the mortgaged estate prove insufficient to liquidate the amount of the mortgage. As between the heir or devisee, and the personal representative of the mortgagor, the heir or devisee can in no case claim exoneration from the latter, unless the ancestor or testator has signified an intention to that effect by "will, deed, or other document."

The Act contains two provisoes, the first of which declares that the rights of the mortgagee against both the real and personal estate of the mortgagor remain untouched by the Act, which merely inverts the previous rule of marshalling, and enables the personalty to be indemnified, if necessary, out of the mortgaged estate, but not *e converso*, as was the previous rule.

The last proviso exempts from the purview of the Act the rights of any person claiming under or by virtue of any deed, will, or document made before the 1st of January 1855. This section must refer to deeds, &c., claimed under immediately, and not after a descent; for if it applied to deeds, &c., claimed under prior to the Act, it would deprive the Act of all operation whatever. The deeds &c., then referred to, are deeds, &c., made by the ancestor or testator, in which he declared his intention that the personalty should be the fund primarily liable to the mortgage debt, or are deeds &c. executed under powers contained in wills. In the former class of cases the declaration that the personalty of the mortgagor is to be the fund primarily liable to the mortgagee, is to be construed in connection with the subsequent will of the mortgagor, and is, therefore, *pro tanto* of a testamentary nature itself. Nothing can be more clear than that the Act refers only to claims under wills or to appointments under powers contained in wills, or to cases of descent. It does not apply to deeds or documents *inter vivos*, unless these be, as regards the purposes of the Act, of a testamentary nature.

THE MEDICAL ACT.

It appears from recent decisions that this Act requires amendment. One object of the Legislature in passing it was to prevent unduly qualified persons from holding themselves out to the public as regular practitioners in medicine and surgery. But its provisions upon this point have been found to be practically inoperative. The fortieth section enacts that "any person who shall wilfully and falsely pretend to be, or take or use the name or title of physician, surgeon, &c., or any name, title or description, implying that he is registered under this title, &c., shall, upon a summary conviction for any such offence, pay a sum not exceeding twenty pounds." And it is enacted by the 27th section, "that the absence of the name of any person from 'The Medical Register' shall be evidence until the contrary be made to appear that such person is not registered according to the provisions of this Act." Under these sections a medical practitioner in the county of Suffolk was convicted by three justices of the peace, in October, 1859, for that he wilfully and falsely pretended to be a surgeon contrary to the form of the abovementioned Act.

Upon this conviction a case was stated for the opinion of the Court of Common Pleas, under the 20 & 21 Vict., c. 43, when the facts appeared to be as follows: At the hearing before the justices the Medical Register for the year in question, compiled in the terms of the Act, was produced, and it did not contain the name of the defendant. It was further proved that the defendant had his name engraved on a plate affixed to the door of his house, and that on this plate he was designated "surgeon, accoucheur, &c." Under these circumstances the justices held that he had wilfully and falsely pretended to be a surgeon within the meaning of the Medical Act; and they convicted him accordingly. When the case was argued for the appellant an objection was taken to the validity of the Medical Register which had been produced before the justices. But this was overruled; and the question at issue was finally decided by a reference to the two sections of the Act which we have given above. The Court held that these had been misinterpreted by the justices, and that the conviction must be quashed. Chief Justice Erle, in delivering judgment, said: "There is nothing in the case to show that the appellant was not in practice as a surgeon before the Act passed; there is nothing to show that he did not possess a diploma from some one of the various learned bodies who are entitled to confer it. The only facts are that he called himself a surgeon, and was not registered. I do not think that that is enough; for it cannot be maintained that every person who calls himself a surgeon without being registered is liable to be convicted." *

As the Act stands, therefore, it does not seem to afford any guarantee to the public against unduly qualified persons from holding themselves out as regular practitioners. The fact of non-registration has been held to prove nothing. Whether or not the name of a medical man is entered in the register is immaterial in so far as regards the public. But as regards the interests of the medical profession, the Act is a very important piece of legislation. By the 32nd section it is provided that no person shall be entitled to recover any charge in a court of law for medical or surgical attendance unless he shall prove at the trial that he is registered under the Act. By the 35th section all persons registered are exempted from serving upon juries, and also from serving in the militia; and by the 36th section persons registered are alone eligible for Government appointments and for a variety of other offices therein specified.

But perhaps the most important provision in the Act, so far as the medical profession is concerned, is one by means of which physicians are now enabled to maintain

* *Pedgrift* v. *Chevalier*, 29 L. J., 227.

an action for their fees. The 31st section enacts that all persons registered under the Act without distinction shall be entitled to recover reasonable charges for professional aid, with full costs of suit, &c. But a very material condition is added, as follows:—

"Provided always, that it shall be lawful for any college of physicians to pass a by-law to the effect that no one of their fellows or members shall be entitled to sue in manner aforesaid in any court of law; and thereupon such by-law may be pleaded in bar to any action for the purposes aforesaid, commenced by any fellow or member of such college."

This section effects an important alteration in the law; for before the passing of the Medical Act it was clearly settled that a physician, like a barrister, could not maintain an action for his fees. The principle was laid down by Lord Kenyon, in *Chorley* v. *Bolcot* (4 T. R. 318) as follows:—"It has been understood in this country that the fees of a physician are honorary, and not demandable of right; and it is much more for the credit and rank of that honourable body, and perhaps for their benefit also, that they should be so considered."

We presume that when Lord Kenyon suggested that the rule of law was beneficial to the medical profession he meant that, as on the one hand physicians could not maintain an action for their fees, so on the other an action would not lie against them for negligence or want of skill. The Act now leaves it to the different colleges of physicians throughout the kingdom to determine whether the members of their body shall have the same privileges as surgeons, or whether they shall maintain the old rule of the profession, and regard their fees as an honorary reward for their services. We are not aware whether any of the learned bodies in question have come to any decision upon the subject. It is one, however, which materially affects the interests of the medical profession, in a purely legal point of view. For if a physician can maintain an action for his fees, it must follow, as a necessary consequence, that an action is maintainable against him for negligence or want of skill. If he assumes the privileges of a surgeon or apothecary, he must also incur their liabilities.

The English Law of Domicil.

(By Oliver Stephen Round, Esq., of Lincoln's-inn, *Barrister-at-law.*)

VII. (*Continued.*)

Of Domicil of Origin.

Before concluding this chapter, I may perhaps be permitted to say a few words respecting birth of children at sea, which has given rise to considerable controversy. Vattel, in speaking of this subject says, at page 102, s. 216: "As to children born at sea, if they are born in those parts of it possessed by their nation, they are born in that country. If in the open sea, there is no reason to make a distinction between them and those who are born in that country; for, naturally, it is our *extraction*, not the place of our birth that gives us rights; and if children are born in a vessel belonging to that nation, they may be reputed as born in its territories, especially when they sail upon a free sea, since the State retains its jurisdiction over those vessels; and as, according to the commonly received custom, this jurisdiction is preserved over those vessels even in parts of the sea subject to a foreign dominion, all the children born in those vessels are considered as born in its territory. For the same reason, those born in a foreign vessel are reputed born in a foreign country, unless their birth take place in a port belonging to their own nation, for the port is more particularly a part of the territory, and the mother, though at the moment on board a foreign vessel, is not on that account out of the country; supposing that she and her husband had not quitted their native country to settle elsewhere." Out of this naturally arises the question what parts of the sea can be said to belong to a country; and the law seems upon that point to be this. There can be no prescriptive right to the open sea. Treaties may affect the rights of certain countries, or there may be rights acquired by tacit agreement, but the only legal right in the sea which any country has is within cannon shot of the coast, no doubt arising out of this consideration, that it is necessary for the purpose of safety that no stranger or foreigner should be allowed to come within that distance. Vattel, s. 289, p. 128. Questions might be made, how far modern improvements in the use of cannon may vary this rule; but still, I imagine the principle would fix it to whatever range the cannon of that country were able to throw a shot. As I have incidentally touched upon the law of France with regard to legitimacy, it will not be out of place here to mention a case bearing strongly upon this point which came before Vice-Chancellor Wood.

In re Wright's Trust, 2 Kay & Johns. 595; 4 W. R. p. 541; 20 Jur. 465. The facts were as follows:—William Wright, in 1821, took the name of Browne, and went to France in 1823 to avoid his creditors; lived with a French woman, and attempted to marry her at St. Omer, but failed in consequence of not bearing his real name, but was married by the minister of the English church there in March 1824. In December of the same year a daughter was born. The marriage was admitted to be ineffectual by the laws of England and France. In 1830, William Wright was called to serve in the National Guard, and got exemption on the ground of being an Englishman. From 1830 till 1854, when he died, he lived in Paris, and never returned to England after 1823 when he left it. In 1836, having paid his creditors he resumed his own name. In August, 1841, married the same person according to the rites of the English church; and in November, 1846, at the *Mairie* according to the French law, when the daughter was acknowledged and legitimatized. William Wright, at his death at 1854, left two daughters by a first marriage in England, and the one in France who petitioned for payment to her of half of her father's personalty. The opinions of French *avocats* were taken, but they were conflicting; and Vice-Chancellor Wood held that the domicil of the child followed that of the father. The French law of legitimization went on the assumption of a contract at the time of conception, and that the country in which a child is born does not affect the case, it is the domicil of the parents.

I may advert to one more case, bearing upon this point, which occurred in the highest tribunal in this country; I mean the case of *Rose* v. *Ross*, 4 Wils. & Shaw, 289. The facts were these:—A Scotchman by birth, heir of entail in possession, and proprietor of estates in Scotland, early in life settled in England, making occasional visits to Scotland. By an illicit connexion with an English woman, he had a son, born in England; and afterwards went to Scotland with the child and its mother, and fifteen days after his arrival in that country he married her. They remained in Scotland two months; visited his estate, and returned to England with the child, where they remained until the death of the father. Upon the question of legitimacy, the Court of Session held, that the child was legitimate; but upon appeal to the House of Lords in this country that decision was reversed, on the ground that the domicil of the father was English (*vid.* p. 292 of the report where the Lord Chancellor concludes his judgment.) The case of *Strathmore* v. *Bowes*, in the appendix of the same volume, p. 89, decides in effect the same point; for there it was assumed that, where a Scotchman has a Scotch domicil, acts done by him in England, which, if done in Scotland would constitute a legal marriage, do make such

marriage legal. The question there was as to the legitimacy of a child to inherit a title; and in this, of course, the law of England materially differs, because in Scotland an *ante natus* is legitimatized for *all* purposes, but such legitimization is only recognised in England as to his personal *status*, and supposing the domicil of the parents English, not recognised at all. Now, I apprehend, that a title stands very much on the footing of real estate, for it is transmitted to a man's *heirs*, and a man could not be his father's heir, and therefore, entitled to real estate, unless he was legitimate for *all* purposes according to our law. A very singular case is reported in the "Decisions of the Court of Session," vol. 16, page 6, of *M'Dowall* v. *Dalhousie*, the facts of which were as follows:—A Scotchman, proprietor of land in Scotland, and domiciled there, formed an illicit connexion with B., a Scotchwoman, also domiciled in Scotland; she became pregnant, and in about three months thereafter he was ordered into England on military duty, and she accompanied him and was delivered of a son in October 1796. He remained for several years resident in England on military duty, but never lost his Scotch domicil, and returned there to reside in 1800; placing B. in a house at Penrith, where he maintained and frequently visited her. Several children were born of B. by A. during his residence in England, and in 1808 a formal contract was signed by A. & B. acknowledging themselves husband and wife, and he took her home to his house in Scotland where they cohabited together as husband and wife, and were universally *habit* and *repute* married persons until her death in 1834. The son born in October, 1796, raised declaration of legitimacy (as is the Scotch term) and of his right to succeed to landed estates in Scotland as heir substitute of entail. Held, first, that a valid marriage had been contracted by the parents in 1808 according to the law of Scotland. Secondly, that as the husband was a domiciled Scotchman, and the marriage was a proper Scotch marriage, it had the effect of legitimatizing the son, *though the place of the son's birth was England, and the principle of legitimatizing per subsequens matrimonium was repudiated by the law of England*; and thirdly, that it was not made out that the mother had lost her Scotch domicil, either before or after the birth of the son; but that *whether she did so or not*, the legitimacy of the son *was equally established*. To the judgment in this case a note was attached in which the following passage from Voet. lib. 25, t. 7, s. 6, was quoted; "*Quia nuptiæ per jus finguntur retro cum concubiam contractæ eo tempore quo illa primitus in concubinam assumptu fecit atque ita filius quoque retro legitimus fingitur.*" It will be seen that in this case the difference between the English and Scotch law as to legitimatizing of children is even more strongly exhibited than in the case of Don's estate recently referred to; for there the son was born in Scotland, but in this case the decision was founded upon two other propositions, in which the laws of the two countries are identical, namely, that the domicil of the son and wife follow that of the father, and further that being only resident in England for the purposes of military duty, no abandonment of his Scotch domicil had taken place, although certainly in his case the fact was rendered beyond doubt by his return and settling eventually in Scotland. There is, however, one peculiarity in the third ground of the decision, that the effect of the subsequent contract or acknowledgment of marriage was to legitimatize the *ante natus*, even supposing her domicil were *not* Scotch, which, as it appears to me, assumes one or both of two things, that the domicil of the father was sufficient to make the son legitimate as being Scotch, or that the acknowledgment of the marriage had such a retrospective effect as to make the domicil of B. follow that of A. even although she was not married to him at the time of the birth of the son. The case was carried on appeal to the House of Lords, and is reported under the title of *Countess Dalhousie* v. *M'Dowall*, 7 Cl. & Fin. 817, and it was held that the child of a Scotchman, though born in England, becomes legitimate for all civil purposes in Scotland by the subsequent marriage of the parents in England if the domicil of the father was and continued then to be Scotch; and that neither the place of the marriage, nor the birth of the child, will, under such circumstances, affect the *status* of the child. In the case of *The Commissioners of Inland Revenue* v. *Gordon's executors*, 12 Dec. of Court of Sessions, 2 Ser. 657, *Lord Fullerton* makes the observation on the general subject of domicil of origin, that though there are *dicta* in some of the cases to the general effect that after the domicil of origin is effaced by a domicil of choice, the latter must be held to remain till a new and different domicil shall be acquired; there is certainly great difficulty in holding that where a domicil of mere choice, which is entirely dependent on the will of the party, is destroyed by a permanent and total removal, such domicil can revive or subsist to any effect whatever, whereas the *domicil of origin* involves an element which is independent of the mere will of the party, and may be held to subsist unless some other has been selected, and continuously preserved till the death of the party.

(*To be continued.*)

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before the Lords Justices of Appeal.)

Feb. 28.—*In re Williams* (*a solicitor*).—This was an appeal from a decision of the Master of the Rolls refusing to make an order for the discharge of Mr. Williams from custody. It appears that an order was made for the delivery up of all deeds and documents in the custody or power of Mr. Williams, belonging to Mr. Cass, his client. Mr. Williams offered to deliver those which were in his own custody, but some briefs were detained by counsel for non-payment of fees, and others were detained by another counsel for a similar reason, and were, therefore, not in the power of Mr. Williams. The Master of the Rolls was of opinion that this was no answer to the fact of disobedience to the order, and refused to order Mr. Williams's discharge.

Lord Justice Knight Bruce. — This gentleman is in prison for not having obeyed an order of the court directing him to deliver up all papers and documents in his possession or power. In my opinion there is evidence before us that he has delivered all such papers and documents, and there is no evidence that he retains any of them. He must, therefore, be released, and he is, I think, entitled to the costs of th application here.

Lord Justice Turner.—I am entirely of the same opinion; and I desire to say nothing more upon this case than that I am of that opinion.

(Before Vice-Chancellor Sir W. P. Wood.)

Bonnardet v. *Taylor*.—This case came before the court upon an interlocutory application by the plaintiffs, that under the common order made upon the defendants for production of documents for inspection "by the plaintiffs, their solicitors and agents," such inspection might be made by a public accountant of Liverpool, as agent employed by the plaintiffs, or some other professional accountant unconnected with the parties to the suit.

For the plaintiff it was contended that a professional accountant was an "agent" within the terms of the common order, and that it was impossible for a solicitor or his clerk, persons not versed in mercantile matters, properly to investigate these books. For the defendant it was contended, on the other hand, that the common order for inspection did not justify the plaintiffs in employing a professional accountant, who was in no sense a *bonâ fide* agent.

The Vice-Chancellor held that although he did not recognise an accountant as coming within the term "agent" in the common order, the special circumstances of this case justified him in granting the application, and directing that

the gentleman named by the plaintiffs be at liberty to inspect the books, &c., of the defendants at Newcastle.

COURT OF DIVORCE & MATRIMONIAL CAUSES.

(Before the JUDGE ORDINARY.)

March 1.—*Brodie* v. *Brodie.*—The facts of this case raised an important question as to the jurisdiction of the court.

The JUDGE ORDINARY said he should probably desire to hear the case argued on both sides. It was a very grave question whether, after a husband and wife had cohabited for a long series of years in a foreign country and had there separated by mutual consent, and the husband subsequently changed his domicil to England, he should be allowed to take advantage of the process of this court to get a divorce. He understood from the public papers that the Lord Chancellor was about to move for a select committee to consider the whole subject of jurisdiction.

The case was allowed to stand over for further evidence and for argument.

HOME CIRCUIT.—CHELMSFORD.

The commission for the county of Essex was opened in this town on Tuesday. Only 7 causes were entered for trial.

MIDLAND CIRCUIT.—NORTHAMPTON.

Mr. Justice Crompton opened the commission in this town on the 28th ult.

NOTTINGHAM.

Mr. Justice Crompton opened the commission in this town on the 7th inst.

LEICESTER.

Mr. Justice Crompton opened the commission in this town on the 4th inst. Only 4 causes were entered for trial.

NORFOLK CIRCUIT.—AYLESBURY.

The commission for Bucks was opened by Mr. Serjeant Tozer on the 4th inst. 5 causes were entered for trial. Two common and three special jury cases.

NORTHERN CIRCUIT.—NEWCASTLE.

The commission was opened in this town on the 28th ult. by Mr. Justice Keating and Mr. Justice Hill.

DURHAM.

Mr. Justice Hill and Mr. Justice Keating arrived in this town on Saturday. 15 causes were entered for trial.

OXFORD CIRCUIT.—READING.

The commission was opened in this town on the 28th ult. by Mr. Justice Blackburn and Mr. Baron Wilde.

OXFORD.

Mr. Justice Blackburn opened the commission in this town on the 4th inst. There were 3 causes only entered for trial.

WESTERN CIRCUIT.—WINCHESTER.

The commission was opened in this town on the 28th ult. by Mr. Justice Willes.

DORCHESTER.

The commission for the county was opened in this town on the 6th inst. by Mr. Justice Willes. There were only 3 causes entered for trial.

MIDDLESEX SESSIONS.

March 4.—The March General Sessions of the Peace for the county of Middlesex commenced this morning at Clerkenwell, before the Assistant-Judge; Mr. Payne, deputy; Mr. Pownall, chairman of the bench; and a large number of magistrates.

The ASSISTANT-JUDGE, in his charge to the grand jury, adverted to the Grand Jury Bill now before the Legislature, and hoped that soon, gentlemen who were at present called upon to discharge the duties of grand jurors would be relieved of that liability, except on certain cases.

Edmund Humphrey Woolrych, Esq., has been appointed a magistrate at the Thames Police court, in the place of Mr. Yardley, who succeeds the late Mr. Secker at Marylebone.

Slingsby Bethell, Esq., has been appointed Gentleman of the Chamber to the Lord Chancellor, in the place of the Hon. W. C. Spring Rice, appointed Secretary to the Commissioners in Lunacy.

Mr. Edward W. Cox of the Western Circuit, and recorder of Falmouth, Penryn, and Helston, is a candidate for the representation of Bodmin, vacant by the retirement of the Hon. E. F. L. Gower.

Mr. Henry Potter, of Farnham, Surrey, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, March 4.

TRADE MARKS.

This Bill was read a second time.

Tuesday, March 5.

ADMIRALTY COURT JURISDICTION BILL.

This Bill was read a second time, it being understood that the clause taking away the right of appeal should be struck out in committee.

Thursday, March 7

THE ACCOUNTANT GENERAL'S OFFICE.

THE NEW COMMISSION.

Lord ST. LEONARDS said it would be in the recollection of their lordships that last week he had brought under their consideration the appointment of the commission to inquire into the expediency of bringing together the courts of law and equity upon one site; and the means by which that object might be obtained. In their report the commissioners came to the conclusion that such concentration of the courts would be expedient; and also that it would be desirable and quite right to take some £1,400,000 for this purpose from funds of the suitors in the Court of Chancery. He had endeavoured to show to their lordships how unjust and impolitic it would be to touch those funds at all. He had understood his noble and learned friend on the woolsack to say that he also approved of what he (Lord St. Leonards) must call a misappropriation of the money of the suitors. He also thought his noble and learned friend had told the House that a Bill was prepared in order to carry out the recommendations of the commission. He (Lord St. Leonards) had heard of no such Bill, but he had heard with surprise of a new commission to be appointed for the purpose of enquiring into the office of the Accountant-General of the Court of Chancery. He never remembered to have heard of anything like this. Here was a great public officer, who for nearly a century and a half had administered a fund, which now amounted to nearly £49,000,000 sterling, with the utmost regularity, so that not a shilling had ever been lost to the fund; and without any charge being brought against him in either House of Parliament, without any explanation, he was to be dragged before a commissioner. There must either be some mystery, or some misconduct, or her Majesty's Government wished by this means to overhaul the fund in order to see whether they could not appropriate any part of it in furtherance of the scheme they had in view. He wished to know whether that was so or not. He knew that the present Accountant-General was indefatigable and able in the discharge of his duties. Had any complaint been made against him? If the funds belonging to the suitors were to be meddled with, the advice he should give to any man would be, either: "Get your money out of court as quickly as you possibly can;" or, "Do anything in the world rather than put your money into the Court of Chancery." The object of the commission, he suspected, was not a direct, but an indirect one—to see what was the state of the fund. Then who were the commissioners? He never was more astonished than when he saw their names. In the late commission two of the members were judges, and one of these learned persons dissented from the proposed appropriation of the fund in a paper with every word of which he (Lord St. Leonards) agreed. A similar arrangement might have led to a little confidence, but upon this commission there was not a single equity judge, nor a single equity barrister. The object was to inquire into the

constitution of the Accountant-General's office, and the management of the funds of that office. He desired to abstain from saying a single word against the personal qualifications of any of the commissioners; but there were two gentlemen upon whose appointments he felt bound to make some observation. One was Mr. Rogers, a registrar of the Court of Chancery, who came forward as a very willing witness upon the last occasion. He was entirely in favour of the scheme for the concentration of the courts and of appropriating the money of the suitors for that purpose. At the late inquiry a solicitor, also of great eminence and experience, was examined. That gentleman, Mr. Field, was also on this commission. Now, Mr. Field was examined as a witness upon the former occasion. He begged their lordships' attention to what was stated by that gentleman. He said that the Accountant-General's office ought to be abolished, for, in his opinion, it was an utterly useless office; and he proposed that the clerks should all be turned over to the Bank of England, who would, thereupon, shut up their own present Chancery office and establish a new branch in Chancery-lane, or in the new consolidated building. That was the gentleman whom his noble and learned friend on the woolsack had agreed to put into this commission. Was it right, he (Lord St. Leonards) asked, that a gentleman who had so far committed himself to an opinion should be put upon a commission of inquiry? This gentleman was put into this position in consequence of what he had said on the former occasion. If this were a proper object, let it be done in a proper way. It was disrespectful to the Court, of which his noble and learned friend was the head; highly dishonourable to the Accountant-General, and alarming to the suitors, who would find out now, for the first time, that the money hitherto supposed to be under the sanction and protection of the law was liable to be appropriated to other objects than the benefit of the suitors themselves. He asserted that the suitors had always a right to demand that their funds be kept in hand. The present income of the Court of Chancery from fees amounted to £100,000 a year. With a little care an amount of £50,000 might be struck off from this charge. But his noble and learned friend, when he moved for the commission, said he did not consider it his duty to propose any reduction in the fees. Surely those fees ought to be reduced if Parliament were to allow any encroachments upon the Suitors' Fund. He thought there was great cause for alarm on the part of the suitors of the Court at the way in which the Government were dealing with these funds.

The LORD CHANCELLOR said there was not the slightest objection in acceding to the motion; but his noble and learned friend was in a state of most unnecessary alarm. There never was a better officer in the service of the Crown than the present Accountant-General. He was most honourable, intelligent, and industrious in business, and the offices over which he presided had been conducted most admirably and satisfactorily. There was no imputation against any officer of the Court whomsoever. All had conducted themselves with the utmost propriety, and in a manner consistent with their public duties. But it was imagined that, for the benefit of the suitors, there might be an improvement in the manner in which the funds were invested. As to any plan to rob the suitors of the Court of Chancery, it was preposterous. He should have thought any fear of that sort would have been quieted when, amongst the list of commissioners, was read the name of Lord Kingsdown. He thought that would be a security that the objects of the commission were legitimate, and that its labours would be efficiently discharged. Suggestions had been made that some improvement might be made in the system pursued in the Accountant-General's office. Part of the funds were invested in the Three per Cents., and part remained in cash, to every shilling of which the suitors were entitled in fixed sums. It had been supposed that there might be a means devised of putting this sum of cash out at interest upon security. Persons more experienced than he (Lord Campbell) was in financial considerations, thought that a system might be established which might ensure this benefit to the suitor. Could there be any objection to this inquiry being made? Then, again, it appeared that upon every occasion when the Accountant-General, on behalf of the suitors, bought in and sold out, a commission was paid; and though that commission was extremely small, it was felt to be a hardship upon the suitors which might be remedied for their benefit. His noble and learned friend had commented upon the names of the commissioners. He thought that the name he had mentioned would be a guarantee that the fund was safe at least. But there were other names which he (Lord Campbell) could equally well defend; though they were not so distinguished in the legal profession as that of his noble friend (Lord Kingsdown). There was Earl Grey; there was a governor of the Bank; there was Mr. Rogers, who was a most meritorious officer of the Court of Chancery; there was Mr. Anderson, who was especially versed in the financial part of the inquiry; there were two solicitors, most intelligent and most honourable men, Mr. Cookson and Mr. Field. He ventured to say no persons in the legal profession were more worthy of the confidence of the public than these gentlemen. Finally it was thought right that a member of her Majesty's Government should be placed upon the commission as a still further guarantee for the interests of the suitors, the objects of the inquiry being intended to be more for their benefit, than on any other public ground.

Lord DENMAN said he was not surprised at the jealousy felt by the noble lord (Lord St. Leonards); because one of the main results arrived at by the late report was this—that unless a certain fund, called fund (B.), could with justice be applied to the rebuilding of the courts, the whole scheme must fall to the ground. He (Lord Denman) had read the whole report with great interest. The Attorney-General seemed to be a leading personage in the proposal for consolidation; and his wish appeared to be to make the Middle Temple as useful to the Court of Chancery as Lincoln's-inn had been. Part of the plan was to pull down Temple-bar, and to build a bridge over Fleet-street. Underground tunnels were also part of the scheme, which was to take seven years for its completion, and to cost £1,400,000. Considering the inconveniences which would arise, he thought the retention of the courts at Westminster highly desirable.

Lord KINGSDOWN said he knew no more of the proposal for this commission than he gathered from the contents of a letter which had been addressed to him by a Secretary of State, asking him to serve on the commission. He had seen in a legal publication articles from which it appeared that sums to the extent of £20,000 or £30,000 might be saved to the fund by a different system of management. Whether or not that were the case he was totally ignorant, but the Government seemed to think that something might be gained; and he thought it would not be consistent with his duty to refuse to serve, when the proposal came from a Government to which he could hardly say he was an opponent. There was nothing political in the matter; and he thought there was no possibility of the most profligate and rapacious commission getting their hands into the "till," as it might be called, of the Court of Chancery. The whole and sole principle of the commission was this: to inquire whether any saving could be made by investing in any security or otherwise of the funds which have been invested on behalf of the suitors to the extent, at present, of £49,000,000. The cash standing in court amounted to a great deal more. Whatever commissioners were appointed, it was to be remembered that nothing could be done except under the authority of Parliament. Nobody could interfere with or misappropriate one shilling of the fund. He believed there was nothing in the terms of the commission which would authorise the commissioners to give any opinion upon the point whether the funds or any part of them should be appropriated to the building of new courts. He believed his noble and learned friend (Lord St. Leonards) to be most properly anxious for the safety of this fund, and that he had done more than most Chancellors who had held the great seal before him to improve its condition; but his noble and learned friend seemed to be under the impression that his speech of the other night had failed to produce the effect which perhaps it ought to have produced. He thought some secret and dangerous scheme was on foot for effecting a purpose that could not be gained directly. As far as he (Lord Kingsdown) was concerned, nothing would be more agreeable to him than that the commission should be superseded. He had seen enough to know that all who engaged in them incurred the hostility of those who were affected by the changes required, and very often of the public themselves who were the gainers by those changes. ("Hear hear," and a laugh.)

The motion was then agreed to.

STATUTE LAW REVISION BILL.

On the motion for going into committee on this Bill,

Lord CHELMSFORD urged that it should be remitted to a select committee.

The LORD CHANCELLOR replied that sending the Bill to a select committee would involve great delay and produce no benefit.

The Bill then passed through committee without amendment.

Friday, March 8.

THE STATUTE OF MORTMAIN.

Lord CRANWORTH introduced a Bill to amend the Statute of Mortmain.

The Bill was read a first time.

TRADE MARKS BILL.

This Bill passed through committee.

THE STATUTE LAW REVISION.

This Bill was read a third time and passed.

HOUSE OF COMMONS.

Friday, March 1.

LAW OF FOREIGN COUNTRIES BILL.

This Bill was read a third time and passed.

Tuesday, March 5.

ERRONEOUS VERDICTS.

Mr. BUTT obtained leave to bring in a Bill to make more effectual provision for the setting aside erroneous verdicts and granting new trials in criminal cases.

PENDING MEASURES OF LEGISLATION.

A BILL TO PREVENT FRIVOLOUS OR FICTITIOUS DEFENCES TO ACTIONS FOR RECOVERY OF DEBTS.

1. The provisions of this Act shall come into operation on the tenth day of August in the year of our Lord one thousand eight hundred and sixty-one.

2. If the plaintiff, or one of the plaintiffs if more than one, in any action which shall be commenced in any of her Majesty's superior courts of common law at Westminster for recovery of a debt or liquidated demand in money, of the particulars of which a special endorsement may be made on the writ, pursuant to "the Common Law Procedure Act, 1852," shall, together with the præcipe on which such writ shall be issued, file or deliver an affidavit in form No. 1, set forth in the schedule to this Act, or to the like effect, no defendant in such action shall be at liberty to enter an appearance, unless he shall with the memorandum of appearance deliver to the proper officer an affidavit in the form No. 2. set forth in the schedule to this Act, or to the like effect, or unless he shall obtain leave from a judge of any of the said courts to appear to such writ, on paying into court the sum endorsed on the writ, or upon an affidavit or affidavits, satisfactory to the judge, which disclose a legal or equitable defence to the action, or such facts as the judge may deem sufficient to support the application, and on such terms as to security or otherwise as to the judge may seem fit.

3. Endorsement on writ to be according to form in schedule.

4. Plaintiff may sign judgment for undisputed part of a debt.

5. In case any defendant shall before appearance obtain an order from a judge for further or better particulars of the plaintiff's demand, such defendant shall be allowed the same time for entering an appearance after delivery of such particulars which he had at the return of the summons on which such order was made, unless otherwise provided for in such order.

6. Act to be called "The Fictitious Defences Act, 1861."

Recent Decisions.

EQUITY.

EQUITABLE ASSIGNMENT OF FUTURE CHATTELS.

Holroyd v. *Marshall*, 6 Jur. N. S. 931, L. C., 9 W. R., 303.

This case deserves consideration as an example of the conditions which must be observed in order that an equitable interest in chattels may be made available against a legal title. The circumstances out of which the question arose may be briefly stated thus:—One Taylor had been employed by the plaintiffs to manufacture for them damask goods, previously to his bankruptcy. The machinery of his mill having been put up for sale by the assignees, was purchased by the plaintiffs. By an indenture made between the plaintiffs of the first part, Taylor of the second part, and a trustee of the third part, after reciting that Taylor was tenant of a mill and other buildings, and that the machinery specified in the schedule thereto was placed on the premises and belonged to the plaintiffs, and that Taylor had agreed for the purchase thereof for £5,000, but, being unable to pay the purchase-money, it had been agreed that the same should be secured, it was witnessed that the plaintiffs assigned to the trustee all the machinery, &c., upon trust for Taylor until demand of payment, and if he should pay the £5,000 for Taylor absolutely; but in case of default in payment, upon trust to sell and apply the proceeds in satisfaction of the plaintiffs' claim. The deed contained a proviso that all machinery which, during the continuance of the security, should be placed on the premises in addition to, or substitution for, the machinery specified in the schedule, should be subject to the trusts thereby declared; and that Taylor would do all acts for assuring such added or substituted machinery accordingly. This deed was registered as a bill of sale. The plaintiffs becoming dissatisfied with Taylor's conduct, demanded payment, and on default took, or attempted to take, possession of the machinery. It was alleged by the principal defendant, who was an execution creditor of Taylor, that at the time of this attempt the sheriff was already in possession under a *fi. fa.* issued by himself. The plaintiffs, however, assumed to act as if they had effectually taken possession of the machinery, and proceeded to a sale by auction. Their right to the machinery on the premises at the date of the deed was not disputed; but during the sale the sheriff took forcible possession of the machinery which had been added and substituted by Taylor, and carried it away. The bill was filed against the sheriff and the execution creditor, to restrain proceedings under the *fi. fa.*; and the question was as to the plaintiffs' right to this added and substituted machinery.

The attempt to prove that the plaintiffs took possession before the sheriff failed. But Vice-Chancellor Stuart decided in the plaintiffs' favour, upon the ground that Taylor had been in possession as their agent from the date of the deed. He admitted that an assignment of chattels to be subsequently acquired is void at law, unless some act be done to give effect to it after the chattels have come into the possession of the assignor. It has been said that such an assignment may operate as a license to seize the after-acquired goods; and if the assignee does seize them under such implied licence, he will be justified in so doing, and his title will thereby become complete. The law upon this subject is founded on Lord Bacon's maxim, *Licet dispositio de interesse futuro sit inutilis, tamen fieri potest declaratio præcedens quæ sortiatur effectum, interveniente novo actu.* In the present case there was *declaratio præcedens*—viz., the proviso in the deed that added or substituted machinery should be subject to the trusts thereof, but where was the *novus actus* necessary to give effect to it? The Vice-Chancellor found it in the possession of Taylor as the plaintiffs' agent, that is to say, in the continuance without any change of the state of things created by the deed, except so far as a change was operated by bringing on the premises fresh machinery as Taylor purchased it. He said, "It is not disputed that as to all the machinery in the mill existing at the date of the security, Taylor the assignor was properly in possession at the time of the seizure, that he was in possession as agent of the plaintiffs. During that possession he purchased the additional articles in question. They were placed in the mill, and made an integral part of the machinery used for the working of the mill. They are in his possession as agent of the plaintiffs, and what more is required?" The defendant had contended that the deed could not operate to pass machinery acquired subsequently to its date, unless it were re-registered under the Bills of Sale Act. The Vice-Chancellor answered this argument by observing that the language of the deed clearly showed an intention that after-acquired property should be subject to its operation; and, therefore, he held that the requirement of the Act was sufficiently complied with by the original registration. In support of this view he relied on the concluding words of the schedule, "And all other the machinery, &c., in or about the premises." But even if it were possible to give to these words the proposed construction, the observation occurs that the object of the clause in the deed to which the Vice-Chancellor referred, was to assign chattels belonging to the plaintiffs to a trustee, upon trusts to permit Taylor under certain conditions to hold possession thereof; and, therefore, that clause could not by any possibility operate as a bill of sale from Taylor to the plaintiffs either of existing or of after-acquired property. Both the argument and the judgment upon this point appear to have proceeded upon a confusion between the former part of the deed, by which the plaintiffs assigned existing machinery to the trustee, and the

latter part of it, which was in effect an assignment by Taylor of machinery to be afterwards acquired to the same trustee.

On appeal to the Lord Chancellor this decision was reversed, and the law applicable to the case was distinctly stated. If possession had been taken by an agent of the plaintiffs before the sheriff entered, the decree appealed from would have been right. But the possession relied upon by the Vice-Chancellor seemed wholly insufficient, "for it was the possession of Taylor the assignor, who cannot be considered the agent of the assignees for this purpose." An attempt was made to support the decree by contending that, irrespective of whether possession had or had not been taken by the plaintiffs, they, under their equitable title, must be preferred to the judgment creditor. But in *Mogg* v. *Baker* (3 M. & W. 193), Mr. Baron Parke said he had the highest authority for stating that the opposite doctrine prevailed in equity as well as at law, and this statement was adopted by the Lord Chancellor in the present case.

The limits within which courts of equity will give effect to these assignments will, however, be better understood by reference to the case of *Langton* v. *Horton* (1 Hare 549). In that case there had been an assignment by way of mortgage of a whale ship, then upon her voyage, and of all oil, head-matter, and other cargo, which might be caught or brought home in the ship. The assignment, therefore, purported to comprise the produce of fish then swimming in the sea, and a clearer case of dealing with chattels having only a possible future existence could not be conceived. Sir James Wigram laid down distinctly that non-existing property may be the subject of valid equitable assignment. But he added that, in the case before him, the mortgagee, having a good foundation for his title, had completed it by obtaining actual possession before the appearance of a rival claimant. When the ship arrived in port, he produced the assignment to the captain, who, in the absence of the owner, took upon himself to deliver possession to the mortgagee. The sheriff's officer, who came on a subsequent day to seize the cargo, found the mortgagee already in possession of it; and this is the important difference between this case and the recent one which has suggested these remarks. The only point on which it can be thought that *Langton* v. *Horton* goes beyond the decisions at common law is, that possession was yielded to the mortgagee by the captain of the ship, whom the Court did not consider as having authority from the owner for that purpose. It may be doubted whether this was a sufficient *novus actus* to satisfy Lord Bacon's rule, which appears to require some act to be done by the mortgagor. But it has been held even at law that if there be a power given by the deed to take possession of after-acquired property, and if the mortgagee act upon that power by taking possession, even without the consent of the mortgagor, his title thus becomes complete. Then, did the deed of assignment in *Langton* v. *Horton* contain an express power to take possession, or might such power be implied from the very fact of the assignment? If either of these questions were to be answered in the affirmative, Sir James Wigram's decision would be strictly in accordance with the current of authority at common law.

REAL PROPERTY AND CONVEYANCING.

Severance of Demesne Lands of a Manor.

In re the London and South-Western Railway (Exeter Extension) Act, 1856; *Ex parte Lord Henley & another*, M. R., 9 W. R. 350.

The point which has been ruled in this case is thus introduced to the reader by Mr. Serjeant Scriven, in the Treatise on Copyholds:—"When demesne lands are separated from a manor, so that the custom is destroyed, they are no longer demisable by copy, and can never re-unite; as if lands are forfeited, or escheat, or otherwise come to the hands of the lord of the manor, and he make a lease for life, or for years, or for one year, or half a year, or other certain time, by deed, *or even by parol*." . . . . "By a separation of the demesnes the author conceives is meant a separation produced by the act of the person having the fee simple of the manor; though in *Lee* v. *Boothby*, Cro. Car. 521, it is said that a lord *pro tempore* leasing a copyhold is a severance; but the *dictum* in that case is in complete opposition to several authorities, which have established that a lease by the lord, being tenant in tail, or for life or years only, will not destroy the custom as to the reversioner or remainder-man." 1 Scriv. Cop. 14, 15. The decision before us is only another instance in which the *dictum* in *Lee* v. *Boothby* has been judicially disapproved.

The lord farmer of a manor, holding under the Bishop of Salisbury, the lessor of the manor, by a lease for a term of 21 years, during the continuance of the term, leased the lands by parol to a tenant from year to year. According to the custom of the manor, the lands were grantable by the lessee for one life in possession and three in reversion. The lord farmer, being afterwards desirous of mortgaging his interest, surrendered the lease of the manor, obtained a new lease for 21 years from the bishop, and by an indenture dated the following day assigned the new lease to a mortgagee for the residue of the term, as a security. The question then arose, what were the respective rights of the lessor and lessee in the manor. The lord farmer asserted, and the reversioner denied, that the former still had, notwithstanding and after his grant by parol of the demesne lands, a right to re-grant the same according to the custom of the manor. In order to try the right, the lessee proceeded to exercise his alleged power. He held a court, granted the lands, and a tenant was admitted, whose interest was purchased by a railway company, and the money paid into court. It was now claimed by the lord farmer and his customary tenant. The Bishop resisted the claim on the ground that the grant by the lord farmer was bad, the lands having lost their demisable quality, at least during the subsistence of the lease, and that the money belonged to him as lessor.

The Master of the Rolls considered it to be beyond doubt that if the lands had been granted by the *owner in fee* of the manor in the way mentioned, the demisable quality of the lands would have been destroyed. But he also held, in opposition to the *dictum* in *Lee* v. *Boothby*, that a separation of demesne lands by a lord with a limited interest could not bind the right of the remainder-man or reversioner. It followed that the new lease granted by the Bishop of Salisbury conferred on the lessee exactly the same powers as it would have done if it had been granted to him for the first time or to a stranger. All defects, therefore, and severances, arising from the previous acts of the lord farmer, were cured by that new lease; and his right to grant the lands, according to the custom, by copy of court roll, was restored to him.

It then appeared that since the granting of the new lease the lord farmer had continued to let the lands by parol to holders from year to year, at a rack rent; and it was argued that these acts, occurring since the grant of a new lease, though they might not create a permanent severance of the demesne lands, must have the effect of causing a severance during the continuance of the lease. The Court held that, inasmuch as the legal estate was no longer in the lessee, but in his mortgagee, these acts of parol demise by the lord farmer could not be valid as against the mortgagee. The agreement with these tenants was that of a stranger; they were liable to be ejected at any moment by the mortgagee; they were, in fact, tenants at will, and it is established law, that if the lord of a manor let the demesne *at will*, no severance of the demesne lands will be effected.

COMMON LAW.

Law of Arrest — Detainers — Conflict of Opinion between the Court of Chancery and the Queen's Bench.

Ockford v. *Freston*, 9 W. R. Exch. 315; *Chapman* v. *Same*, ib.; *Bateman* v. *Same*, ib. Q. B. 311; *Ex parte Same*, ib. Chanc. 321.

By the 257th section of the Bankrupt Consolidation Act, 1849 (12 & 13 Vict. c. 106), it is, among other things, in effect provided that the Court, on the application of the assignees or of any creditor of a bankrupt whose certificate has been refused or suspended, or to whom any further protection has been refused, shall grant a certificate to that effect operating as a common law judgment; on which the body of the bankrupt may be taken and detained in execution. Upon the proper construction of this provision (taken in connection with s. 112), an important question has been discussed in the Court of Chancery, and also in the Courts of Exchequer and Queen's Bench; and as these tribunals disagree, it will be well to explain shortly the precise point at issue between them.

The 112th section above referred to protects a bankrupt not in prison at the date of his adjudication from imprisonment until the expiration allowed him for finishing his examination, and for such time afterwards as shall be from time to time endorsed by the court on the bankrupt summons until the allowance of his certificate; and, inasmuch as in the first of the above three cases, the commissioner had given the certificate under s. 257 (upon which an execution writ of *ca. sa.* issued), *before* the time allowed for the bankrupt to finish his examination had expired, the Barons

of the Exchequer were unanimously of opinion that on such writ of execution the bankrupt was entitled to his discharge —because the certificate had been given by the commissioner prematurely. And so far as this point was concerned, it may be here remarked that the Queen's Bench appear to be of the same mind as the Exchequer, though in the particular application before the former court, it was not necessary to decide the question. But it so happened that after the expiration of the period for finishing his examination, and at a time, therefore, when the commissioner could legally give the certificate referred to in section 257, two other creditors applied for and obtained certificates in respect of their respective claims; and under each of these the bankrupt, already in custody under the first *ca. sa.* (which it will be remembered issued upon the certificate prematurely given) was detained. In the first of these subsequent cases, the process of execution issued out of the Court of Exchequer, and in the other out of the Queen's Bench; and, in each case, the defendant (or bankrupt) applied for his discharge, though with different results. The Court of Exchequer held (Martin, B., however, *dubitante*) that he was entitled to his discharge, by reason of the decision of the House of Lords in the case of *Hooper* v. *Lane* (6 Ho. of Lds. Cases, 443). They considered that case to establish this principle, viz. that if a man be illegally in custody at the time when a detainer is supposed to operate upon him, he shall be free from the custody under the detainer; in other words, if he is only illegally in custody, he must be set at large before he can be legally arrested. And they did not think that this principle ought to be qualified by making the liability to be detained upon the primary illegal arrest, depend upon the further question whether the sheriff was or was not liable to proceedings for taking, under such previous writ, the person detained. It was urged upon the court that their discharging the bankrupt upon the ground that his original arrest was illegal —the certificate under sect. 257 having been given prematurely —would throw discredit upon a part of bankruptcy practice as now usually administered, viz., upon the "protection" usually endorsed on the bankrupt summons—for, if the bankrupt could not legally be arrested during his examination time, no such protection was needed. But the Court of Exchequer did not feel themselves pressed with this argument, because the most that it tended to show was that such endorsement was surplusage, and in practice—as preventing illegal arrests—it was convenient. As to this part of the case it was not referred to in the application to the Court of Queen's Bench for a discharge from the process which had issued out of that court; but upon the main question they differed altogether from the Court of Exchequer, and refused to order the person to be discharged. They mainly relied upon the law as established in *Barrett* v. *Price* (9 Bing. 566); which they held not to be affected by the decision of the House of Lords in *Hooper* v. *Lane*; because in the case last mentioned, the sheriff himself was a wrongdoer in making the primary arrest, which in the case of Freston he was not—being justified by the writ, however invalid the certificate of the commissioner on which that writ issued may have been. And in accordance, therefore, with *Barrett* v. *Price*, the Queen's Bench conceive the law as to detainer to be that it is valid if an original arrest by the detaining party would have been valid,—unless, indeed, the primary arrest was wrongful on the part of the sheriff; or, unless there was collusion between the arresting and the detaining creditor, or between the arresting creditor and the sheriff.

The Court of Queen's Bench, therefore, having on these grounds refused to interfere, and to make a rule for setting aside the detainer (which was the mode in which the application for a discharge shaped itself in that court), the bankrupt then resorted to the Court of Chancery, availing himself of his writ of *habeas corpus*, which issues out of all the superior courts, both at law and equity. In disposing of this writ the Court of Chancery sat, therefore, in effect as a court of appeal from the courts of law; and they have reversed the judgment of the Queen's Bench, adhering to the opinion (and very much upon the same ground) of the Barons of the Exchequer. Assuming that the arrest in the first of the above cases was illegal, as having been upon a premature certificate, the Court came "to the question on which the Court of Queen's Bench and the Court of Exchequer have deliberately differed"—viz., whether, on such illegal arrest, it was possible for the bankrupt to be legally detained? and they answered that question in the negative. They held that during the time of privilege, no foundation for a subsequent seizure could be laid; and though the case depended rather upon this general principle (which, it was remarked, had been consistently observed by Lord Eldon) rather than on *Barrett* v. *Price*, or *Hooper* v. *Lane;* neither of which authorities really applied to the present case. *Eggington's case* (2 Ell. & Bl. 717) appeared to the Court of Chancery more closely in point. There it was held by the Queen's Bench (Lord Campbell presiding) that a man in custody under an illegal arrest issued at the suit of A., might be detained under a *ca. sa.* issued without collusion at the suit of B. But in the present case the Lord Chancellor distinguished his previous decision, by explaining that in *Eggington's case* the original arrest was illegal, not because it invaded a *personal* privilege, but because it had been made on a Sunday; which he considered made the whole difference. The bankrupt was accordingly discharged from custody.

Correspondence.

LAW EXAMINATIONS.

I cannot help thinking that the proposed examinations may be advantageously carried, at least a step farther than is at present proposed; and that some sort of bridge may be thrown across the gulf which must otherwise separate the one class of clerks (viz., those whose articles happen to bear a date prior to 28 August, 1860) from the other. The course which most obviously suggests itself (and was, I believe, successfully carrried out in the Civil Service) is this:—Let every member of the class I have first named have the *option* of submitting himself to either or both the examinations, and obtain (if he can) a certificate of his success. Depend upon it, the certificate will be none the less valued, either by its possessor or the public, from the fact that it was sought and won, not by compulsion, but by choice.

Indeed, Sir, it seems to me that however unfair it may be on the part of the committee to attempt to make these examinations compulsory in the class I have named, it is far more unfair to exclude from them altogether those who voluntarily offer to undergo the test. Some persons, I know, sneer and pooh-pooh the examination movement; but we can no more check the advancing waves by sneering and pooh-poohism than hope by such means to stay the progress of a great movement daily advancing in importance and popularity. We cannot afford to make light of it, if we would. The old, short, easy, royal roads to success are well nigh blocked up; the old weapons of wealth, patronage, and the like, to which every foe was expected to succumb, are fast losing their power. We live in a practical, matter of fact age, where other weapons are required, where it is insisted that the square men, and the square men only, shall fill the square holes, where, in other words, credit is given only for what is indisputably proved, and every man must establish his right to occupy the position he seeks. Every manly heart rejoices that it is so, and therefore, Sir, I would earnestly appeal to the committee, through your columns, not to shut out from the proposed examinations a single clerk who has the desire to add alike to his own honour, and that of the profession to which he aspires.

A CLERK ARTICLED PRIOR TO 28th AUG. 1860.

PRELIMINARY EXAMINATION.

I observe in your article in last Saturday's number that you give credit to the existence of a "rumour" that a considerable number of "ten years' clerks" have rushed into articles to avoid a preliminary examination. I have no knowledge whether or not such an insinuation has been set afloat, but I would suggest that if a considerable number of clerks who were deserving, in the eye of the Legislature, of the privilege granted to them have, since the passing of the Act, availed themselves of their opportunities of obtaining their articles, it only proves their appreciation of the benefit conferred by the Act.

But, even admitting the rumour to be correct, before passing what appears to me to be a slur upon the ten years' clerks for endeavouring to shrink from an examination such as the preliminary one suggested by the committee, I would ask you to consider who the ten years' clerks are. The greater proportion of them will be found to be men whose time is fully occupied by their duties; they are practical men of business, and many of them good lawyers and could easily pass an examination on points of their profession, but in my opinion it would be hardly fair to place them on a footing with youths just leaving

school, in what might be properly termed a school examination. How many solicitors there are who now occupy the most eminent and honourable positions who would find it difficult to pass a creditable examination either on the last four subjects of the first part of the preliminary examination, or in any two subjects of the second part? At sixteen years of age they could have done so, no doubt; but their time having been for years past devoted to the work of their profession where the subjects referred to but seldom come before them, the majority of them would be found wanting. The ten years' clerks are many of them similarly circumstanced. Probably some of them could have passed the examination years back; but to train again and read up for such an examination would be to them so much time wasted and useless labour. To come within the 4th section of the Act they must have been efficient for the profession for ten years. However, as I read the recommendation of the committee the preliminary examination is only intended for those who have not by other means proved their fitness; and, in my humble opinion, this is carrying into effect the intention of the framers of the Act—the object of the preliminary examination being simply to ascertain whether the applicant is fit and competent to enter the profession.

A. B.

THE COUNTRY SOLICITORS' UNION.

Can any of your readers tell me what has become of this gigantic scheme to do away with the London agents, once the subject of an admirable article in your columns? If I mistake not, the office was on a first floor in Warwick-court in the same room and employing the same secretary as the Royal Commission as to Evidence in Chancery. I recollect wishing at the time that the Lord Chancellor, Lords Lyndhurst, Brougham, &c. &c. &c., were aware of the alliance.

P. S. A.

THE EQUITY JUDGES.

At the commencement of the present sittings after Term the V. C. Stuart had 83 causes for hearing in his paper. Several of them, of course, were not ripe for hearing; but that in which a poor friend of mine is greatly interested was so and had been from the 11th January; and since that day to the present time many weary weeks have passed over, and the cause is not yet heard. My poor friend complains that as the Master of the Rolls had applied to the Vice-Chancellor for a transfer of some of the business before him, that learned judge might have spared some of it, and thus have enabled the Master of the Rolls to have put my poor friend out of his misery.

A Managing Clerk.

NEW BANKRUPTCY BILL AND REGISTRARSHIPS.

I hope the Incorporated Law Society or the Metropolitan and Provincial Law Association, will, ere it be too late, take care that provision is made in the present Bill that future vacancies in the registrarships of the London and County Courts shall be filled by barristers or solicitors only:—as the barristers have the monopoly of the commissionerships, perhaps the solicitors ought to have that of the registrarships, especially as a very important part of a country registrar's duty is that of taxing bills of costs, of which, generally, barristers know little or nothing practically.

By the 5 & 6 Vic. c. 122, under which the district bankruptcy courts and consequent registrarships were created, no provision is made for the qualification of the registrars, and the consequence is that this most important office, which ought to be filled by a first-rate lawyer (for the registrar, when sitting as deputy for the commissioner, can do every thing the commissioner himself can, except commit, grant bankrupts' certificates, and hear disputed adjudications), may be and was in a country district with which I am acquainted, filled by a layman not possessing the slightest knowledge beforehand of his duties, or having had an hour's legal education. Even county court registrarships, which are of a much inferior character, require to be filled by practising solicitors, and I therefore hope one of the bodies above named will do their fraternity the justice of endeavouring to secure the insertion of a clause in the new Bill to remedy the matter I have pointed out.

I would suggest that only practising solicitors of ten years standing should be eligible for the office.

A Country Solicitor.

Reviews.

A Manual of Equity Jurisprudence, founded on the Works of Story and Spence, and comprising in a small compass the points of Equity usually occurring in Chancery and Conveyancing, and in the General Practice of a Solicitor. By Josiah W. Smith, B.C.L. 6th Edition. Stevens and Sons. 1861.

This little work has now reached a sixth edition, and although it has from time to time received considerable additions in the shape of new cases, it is still remarkable for its moderate dimensions and the simplicity of its arrangements. It is yet the only book which can fairly pretend to be a *manual* of equity jurisprudence. Originally it was little more than an attempt to condense the larger works on the same subject of Mr. Justice Story and of Mr. Spence. But since its first edition Mr. Smith has judiciously noted up a number of recent authorities relating to the points explained in the original work. Although this proceeding appears to be, and is, in fact, somewhat opposed to the proper scheme of the work, students will nevertheless find it very convenient to be directed, by so learned and competent a teacher, to the latest cases affecting any particular doctrine of the Court. The difficulty is, not to mislead a young reader in stating a long-established doctrine in broad general terms, and then tacking on to such statement one or two recent modifications or extensions of it, but omitting altogether a very numerous class of cases, having as much relevancy to the doctrine as those which are cited—their citation depending merely upon the accident of their recent decision. It is, of course, impossible, in a very small elementary work, to do more in effect and with precision than to disclose the proper elements of the subject under consideration; and any attempt to deal with specific details can hardly be satisfactory in such a book. Thus the law of equitable liens is disposed of by Mr. Smith in a page and a half—certainly the smallest possible compass in which the first principles of the doctrine could be stated even in the most general terms; but in truth, Mr. Smith does not affect to aim at any generalization under this head. He is content with stating one proposition from Story as to the usual way of enforcing a lien in equity, and four others from Spence as to the liens of a solicitor, of joint tenants, of trustees and of annuitants; and as to the lien of a solicitor he cites four recent cases, and states the effect of a decision in one. We have taken the section upon equitable liens, because it affords us an opportunity of giving an easy example of one objection to which all books such as this manual are exposed. The true notion of a legal manual of doctrine appears to us to be a book in which *principles* only are stated, cases being cited merely for the purpose of illustration. It is impossible otherwise to attain even the semblance of completeness within so small an area. It is not enough that the division and enumeration of topics should be accurate; if under many of the heads nothing more is stated than the special ruling in a few isolated cases, which have no more right to be singled out for that honour than scores or hundreds of others which might properly be included under the same head. But although Mr. Smith appears not to have been very anxious about the scientific completeness of his book, he has evidently bestowed considerable pains in making it of practical use. Any diligent student who traces out for himself the sources of information indicated in this little manual need never to be at a loss for information as to the doctrines of courts of equity; and we know of no work which is so well suited for a young beginner in the study of equitable jurisprudence. The fact that it has gone through five editions shows how well it has been appreciated; and we can confidently say that the sixth edition is far the best which has yet appeared.

The Indian Penal Code (Act XLV. of 1860), with notes. By W. Morgan, and A. G. Macpherson, Esq., Barristers-at-Law. G. C. Hay, & Co.: Calcutta. 1861.

It is now many years since the notion of codifying Indian law was first conceived. There have of course been numerous reports and blue books on the subject. It is more than twenty years since the Indian Law Commissioners, of whom the late Lord Macaulay was president, laid before the Governor-General the draft of an Indian penal code. It was not, however, until last year that the recommendations made in 1837 were carried into effect. The penal code, which was very much, if not altogether, the work of Mr. Macaulay, was then enacted with few alterations by the Legislative Council; and the

volume now before us is a very admirable edition of the Act as passed by the Council. Mr. Walter Morgan, one of the authors of this edition, is the Master in Equity of the Supreme Court of Calcutta, and was formerly clerk to the Legislative Council. It is not many years since he practised at the English bar, where he was regarded by his brethren as an accomplished and promising lawyer. We are, therefore, not surprised to find that he has proved quite a model editor of a code. The enactments, as well as the editors' notes, are incorporated in the text, but in different types, and in an extremely convenient manner. The notes exhibit considerable learning and aptitude for such work as the editors have undertaken. Indeed, we hardly know any English Act of Parliament which has been so well and skilfully edited. Messrs. Morgan and Macpherson not merely explain the text of the enactments by a judicious commentary, but they supply abundant and useful illustration of the probable operation of particular enactments; and altogether they have done their work in a manner not less creditable to the bar of Calcutta than it is to themselves.

The Act itself is highly interesting to English lawyers at the present time, now that they are at length making a serious attempt at something like an English Criminal Code. But we must postpone for the present any minute examination of this great work, comprising, as it does, so large a department of jurisprudence. We may observe, however, for the purpose of shewing the advanced character of the Indian code, that it makes certain breaches of trust criminal, and renders the party guilty liable to severe punishment. Dishonest "misappropriation" of property is also made a punishable crime, and so is the dishonest removal or concealment of property; and the dishonest execution of a deed of transfer, containing a false statement of consideration. A new technical term of crime, and one of extensive application in this code, is "mischief;" and we cannot omit noticing at the present moment—now that the Lord Chancellor has a Bill before the House of Lords to make the forging of a trade mark a misdemeanour—that there are very careful provisions on the same subject in the Indian Penal Code. We are glad to see that the illogical and absurd distinctions indicated by our English terms felony and misdemeanour, and the words themselves, are nowhere to be found in the penal code of India.

Obituary.

THE LATE SIR JOHN OWEN, BART., M.P.

It is not perhaps generally known, that this venerable baronet (who sat in Parliament uninterruptedly for the unusually lengthened period of 55 years) was the only surviving member of the bar who held briefs as junior counsel with the celebrated Lord Erskine when in the zenith of his professional fame.

Sir John was born in 1776, and was the eldest son of Joseph Lord, Esq., by Corbetta, daughter of Lieutenant-General Owen, and granddaughter of Sir Arthur Owen, Bart. His father not being a man of very ample means, and Sir John having early exhibited considerable talent, it was determined that he should seek his fortune in professional life at the bar; and he was accordingly sent to Oxford, where he graduated B.A., at Christchurch, and in 1800 was called to the bar at the Inner Temple. He immediately took chambers at No. 26, Arundel-street, in the Strand, and attended the Gloucester and the Carmarthen Sessions, and also rode the Oxford Circuit. His practice soon increased, and in 1802 he removed to chambers No. 10, New-square, Lincoln's-inn, (and in 1809, to No. 3), and became much engaged as junior counsel at the Nisi Prius sittings of the common law courts both at Westminster and at Guildhall. On one occasion he was retained in an important cause as junior counsel for the plaintiff with Mr. (afterwards Lord) Erskine; and when it became the duty of that eminent advocate to reply, it was found that he was then addressing a jury elsewhere; and the judge called on Mr. Lord to proceed, refusing to delay the cause until Mr. Erskine could be present. Mr. Lord readily availed himself (like the "silver-tongued" Mr. Murray, afterwards Lord Mansfield, on a similar occasion) of this most opportune circumstance, and addressed the jury with so much eloquence and power that he not only obtained a verdict, but Mr. Erskine, who had entered the court during his speech, turned round and congratulated him, saying at the same time "If you perservere in this course Mr. Lord, you will not only be 'Lord,' by name, but in due time 'Lord' by title." Sir John in after life mentioned this fact with much gratification to the writer of this brief sketch; but his career at the bar was suddenly stayed by the death of Sir Hugh Owen, sixth baronet, to whose large estates and property he succeeded by devise. He then assumed the name and arms of Owen, and, the title being extinct, was himself in 1813 created a baronet. He often, however, mentioned how much more brilliant would have been his career, in all human probability, had he remained at the bar. In 1806, he entered Parliament as member for Pembrokeshire, and continued uninterruptedly to represent that county until 1841, when age and increasing infirmities induced him to desire a smaller constituency, and he was elected for Pembroke, which borough until his death he represented without intermission. With the single exception of another venerable Baronet (Sir Charles Burrell, who entered Parliament the same year, but rather earlier in the year), he was the oldest member of the House of Commons.

In 1802, he married Charlotte, daughter of Rev. J. L. Philips (who was the mother of the present baronet), and after her death in 1829, he married in 1830 as his second wife Frances, third daughter of E. Stephenson, Esq., of Farley Hill, Berks, who survives him. Sir John was governor of Milford Haven, and Lord Lieutenant of Pembrokeshire, and he was also patron of six livings. He died on 15th ult. at his seat, Taynton House, Newent, Gloucestershire, in his 86th year, and is succeeded in his title and estates by his eldest son, now Sir Hugh Owen, Bart., born in 1803, who married in 1825 Angelina Cecilia daughter of Sir C. G. Morgan, Bart., deceased, and who after having been recently defeated in a contested election for the county has now succeeded his father as member for Pembroke borough.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

At a recent meeting of this society, Mr. EDGAR read a paper "On some Proposed Amendments in the Law relating to Procedure and Evidence on Criminal Trials."

During the last session several measures relating to procedure and evidence on criminal trials were brought before Parliament, which this Society was unable to consider from its attention being occupied with other questions. None of the measures to which I allude received the sanction of the Legislature; but as they are all of a more or less important character, and are likely to be introduced again in the next session of Parliament, I have thought it advisable to bring them to the notice of the Society on the present occasion.

The Bills to which I refer are—Lord Chelmsford's "Indictable Offences' (Metropolitan District) Bill," Lord Brougham's "Plea on Indictments Bill," Mr. Denman's "Felony and Misdemeanour Bill," and Lord Brougham's "Law of Evidence Further Amendment Bill."

In addition to these Bills there are some other amendments in the law relating to procedure and evidence on criminal trials, which have been suggested during the last few years, to which I am anxious to call the attention of the Society. Of course, it will be impossible for us to discuss on this evening all the questions which arise on the Bills and schemes to which I refer; but on some of them an opinion may be now expressed, whilst others may be considered at a future meeting or referred to a committee. At all events, it is right that an opportunity should be afforded to this Society of pronouncing an opinion, if deemed advisable, on measures involving considerable changes in our criminal procedure.

The Bill of Lord Chelmsford provided that charges were not to be tried at the Central Criminal Court, or at any quarter session in the city of London or the metropolitan police district, without previous investigation by a magistrate; and that after a person had been committed to take his trial by a metropolitan police magistrate, or the Lord Mayor, or an alderman of the city of London, sitting at the Mansion House or the Guildhall, or by any two justices of the peace sitting publicly in any part of the metropolitan district, except in the divisions assigned to police courts, an information, to have the effect of the finding of a grand jury, should be filed in lieu of an indictment. The Bill also provided that where the magistrate dismissed the charge, the prosecutor might prefer an indictment; and there was a proviso that nothing therein contained should apply to any charge of treason, or any offence against the State, or to any charge of nuisance. These are the principal provisions of the Bill which it is necessary to mention at present, and, in my apprehension, they involve a change of a most judicious and

beneficial character. It is impossible to maintain any institution at the present day which is entirely useless; but the effect of the evidence before the Select Committee of the House of Commons in 1849 was, that grand juries in the metropolis are not only unnecessary, but in many cases positively mischievous. As Lord Chelmsford very justly said in moving the second reading of the Bill last session—"If the grand jury found a true bill, they merely repeated the decision of the magistrate who sent the prisoner for trial; and if they threw out the bill, they might be committing a grave error in the administration of justice. That was the view which the late Lord Denman took, and on which he contended that the institution was superfluous. It was not to be wondered at that it frequently happened that bills sent before grand juries at the Central Criminal Court were ignored, to the surprise of the judges who had the depositions before them, of the magistrates who committed the prisoner for trial, of the prosecutors who knew the facts, and even of the prisoners themselves. The grand jury, in fact, had been called the hope of the London thief."

The great object of a grand jury is to afford a security that no man shall be put on his trial for any charge unless there be a *primâ facie* case against him, amounting to something more than a bare suspicion; and there can be no reason in the nature of things why, after the accused has been committed for trial by a police magistrate, after a careful and public investigation of the charge in the presence of the accused, with full opportunity to him to avail himself of professional assistance, an *ex parte* inquiry should take place before a secret tribunal, in the absence of the prisoner, and of any one to represent him. With regard to offences of a political character, where, for obvious reasons, a grand jury is a great safeguard, these were excluded from the operation of the Bill; and none of the arguments which have been brought forward against the present system apply to such cases. Again, whatever advantages may arise from country gentlemen taking a part as grand jurors in the administration of public justice, this consideration, it is obvious, can have no application to the metropolitan district, where, amongst the members of the mercantile community, the frequent attendance required of them as jurors operates as a most serious inconvenience. Looking to the state of feeling on this subject throughout the metropolitan district, I have no doubt that the passing of Lord Chelmsford's Bill would be considered as a great boon and as a triumph of common sense over common law.

The "Plea on Indictments Bill," brought in by Lord Brougham, provided, that when a person was arraigned upon an indictment, he should not be asked whether he was guilty or not guilty, but whether he desired to be tried, or plead guilty; and that in case he answered that he desired to be tried, this answer should have the same effect as a plea of not guilty. With regard to this proposed amendment in our criminal procedure, it may be very true that in the great majority of cases no difficulty is felt by prisoners, and that the plea of not guilty has only reference to the legal proof of the charge; still instances frequently arise where prisoners believe that they are required to utter a falsehood as the condition of having a fair trial according to law, and are thereby induced to plead guilty. There are few cases, indeed, of a serious character in which such a plea is satisfactory, and the judge in such cases generally urges the prisoner who has so pleaded to change his plea. A criminal is not always able to determine the kind or degree of his legal guilt; and numerous instances have occurred where, after a prisoner has retracted his plea of guilty and pleaded not guilty, he has either been entirely acquitted of the charge, or found guilty only of the minor offence. By substituting a declaration on the part of the prisoner that he wishes to be tried for the plea of not guilty, the real meaning of that plea would be expressly stated, and what operates as an impediment in many cases to the proper administration of justice, removed. I am not aware that the supporters of this amendment have any thing to contend with, except the attachment to ancient forms which influences so powerfully many minds. This, though on the whole a laudable feeling where the matter is one of entire indifference, can scarcely be considered as a sufficient ground for resisting a useful and legitimate and practical change.

Mr. Denman's "Felony and Misdemeanour Bill" provided that upon every trial for felony or misdemeanour, where the prisoner or defendant was defended by counsel, and such counsel at the close of the prosecutor's case did not announce his intention to adduce evidence, the counsel for the prosecution should be allowed to sum up the evidence; and that on every trial for felony or misdemeanour, the prisoner or defendant, or his counsel, should in every case where he has adduced evidence, be allowed to sum up such evidence. The practice which the Bill sought to introduce into criminal trials, has been found to work extremely well in the trial of civil causes, into which it was introduced by the Common Law Procedure Act, 1854. To quote from Mr. Denman's speech on moving the second reading of the Bill:—"That practice had been adopted for the last six years in the trial of civil actions, and it had been found to afford great facilities for the discovery of truth; a great deal of time had also been saved by it through the prevention of much fruitless cross-examination of witnesses, as well as of those lengthened anticipatory observations which counsel, not having the right of reply, were obliged to address to the jury, in order to meet every conceivable turn which the case was likely to take. From not being allowed to sum up the evidence at the close, the prisoner's counsel were frequently deterred from calling important witnesses, merely because they could not tell what would be the effect on the jury if these witnesses were shaken in some immaterial part of their testimony."

These and other arguments of Mr. Denman were not met at the time, or in any subsequent discussion on the Bill either in the House of Commons or the House of Lords. If the practice of allowing counsel to sum up be desirable in civil trials, the same rule should prevail in criminal proceedings. It is one great peculiarity of our judicial system that the rules with regard to the admission of evidence, and the mode in which it is presented to the jury, apply equally to both; and it is difficult to see on what ground any exception to this principle can be maintained.

There are some other provisions with regard to evidence in civil actions in the Common Law Procedure Act, 1854, which might also be introduced into criminal proceedings. I allude to the allowing of an affirmation instead of an oath, where the witness has conscientious objections to be sworn, and the provisions with regard to a party discrediting his own witness, cross-examination as to previous statements in writing, the proof of conviction of a witness, the proof of attested instruments to the validity of which attestation is not necessary, and the comparison of a disputed writing with a writing proved to be genuine. Whatever tends to the discovery of truth in civil proceedings, must be equally advantageous in criminal; and there can be no sufficient reason why it should not be adopted in the latter, where it would equally operate in favour of the accused and of the prosecutor.

Although I would propose the extension of the provisions of the Common Law Procedure Act, 1854, with regard to allowing an affirmation in certain cases instead of an oath to criminal proceedings, I should by no means regard this as a final settlement of the question. The whole subject of oaths requires to be considered with reference to modern ideas and feelings. The practice of solemnly appealing to the Supreme Being can only be vindicated on the ground of necessity, and such necessity cannot be shown to exist by any arguments of a satisfactory character. No appeal of this nature can render the obligation to speak the truth stronger than it is felt to be by every honest and upright man who appears as a witness with simple reference to the ends of justice; and where this obligation is not felt, I have little faith in mere superstitious feeling, the nature of which is to be conveniently elastic. Let there be a simple declaration that the witness will speak the truth, and let wilfully false evidence be punished in the same manner that perjury now is; and no evil, I firmly believe, would be found to have arisen from dispensing with a most objectionable formality.

There were several proposals made by Mr. Pitt Taylor, a few years ago, for amending the law touching procedure and evidence, which were embodied in a Bill introduced by Sir F. Kelly in 1856. Some of these have special reference to criminal proceedings; and I would particularly call attention to a proposal for abolishing the rule which excludes from the consideration of the jury material statements made by a prisoner, because the prosecutor or a policeman may have suggested to him that it would be better for him to tell the truth or the like. It is impossible to read the cases on this subject without seeing how much important evidence has been excluded by this rule. Such evidence would, no doubt, always be liable to observation, and in some cases, it might, perhaps, be shown to be worthless; but this can be no reason why admissions bearing directly on the issue to be tried, should not be brought before the jury. The object of all the amendments in the law of evidence in modern times has been to make the jury the judges of the value of whatever tends to throw light on the matter in issue, instead of excluding it from their consideration on a presumption of its inferior worth. The English law of evidence is certainly based on sound and substantial principles, and is without doubt one

of the noblest achievements of the human intellect in the history of jurisprudence. The distinctions which it draws between what is admissible and what is not, have in general some foundation more or less solid; but its error has lain in excluding what was of inferior value, instead of admitting it, and estimating it at what it was worth. The latter is the principle of all recent amendments in the law of evidence, and I think it would be desirable to introduce it with reference to the matter to which I have now alluded.

Lord Brougham's "Law of Evidence Further Amendment Bill" provided that any person on trial for felony or misdemeanour might offer himself as a witness in his own behalf, subject to cross-examination like any other witness called in behalf of such person. The provision applied also to the wife or husband of such person. Although I approve strongly of the principle of this measure, yet, as the subject will be shortly brought before the Society by the committee who have been considering it, I do not think it advisable to enter into the question at present.

A committee of this Society, appointed in 1858 to consider the rule requiring unanimity of juries, reported, as to juries in criminal cases, "that the rule which requires their unanimous verdict ought not to be altered, the rule being grounded on the principle, that before any man is convicted of crime, such evidence should be adduced as will satisfy the minds of twelve jurors." When the report was discussed, the general feeling seemed to be very strongly in favour of this view of the committee; but as considerable difference of opinion existed as to the unanimity of juries in civil trials, it was finally resolved simply to receive the report of the committee. I should not certainly be inclined to propose any change in the rule with regard to juries in criminal cases, but I would strongly recommend that one restriction relating to juries should be abolished, viz. the denial of meat, drink, and fire to juries who have retired to consider their verdicts, a restriction opposed to all humane feeling and all enlightened reason. Another improvement which might be safely adopted, would be to provide that, after deliberation for a certain number of hours, the jury, if at the end of that they had not agreed on their verdict, should be discharged, where a majority so requested. I would also suggest, that the rule which requires juries, where a trial for felony is adjourned, to be taken charge of by the sheriff, and kept together by him, should be abolished. There can be no valid reason for adopting a proceeding in trials for felony, which is not considered necessary in trials for misdemeanour and in civil trials; and I cannot believe that any evil would arise from the juries being allowed to go to their own homes, which would at all justify a system productive of great inconvenience and hardship to men who are called on to discharge a public duty.

The subject of an appeal in criminal cases on the facts, has excited considerable public attention during the last few years. Although the importance of the subject has been felt by many members of this society, yet the difficulties which environ the question have prevented its being taken up here, and the feeling amongst members generally, as far as I have learned is, that it is better for us to wait until a satisfactory scheme is proposed, than to attempt to bring forward any plan which might be liable to great objections. The Bill of Mr. M'Mahon provided that the Court of Queen's Bench might grant a *certiorari* after the trial of any indictment with a view to a new trial. But the difficulties connected with such a plan are very great; and they seem to have been felt so strongly by the House of Commons, that the Bill was thrown out last session on the second reading. After Mr. M'Mahon's measure was negatived, Sir Fitzroy Kelly gave notice of a Bill on the same subject, but as this appeared to be against one of the rules of the House, no further step was taken by him in the matter. It is expected that Sir F. Kelly will bring forward his measure during next session, and it is greatly to be hoped that it may prove to be of a satisfactory character. The system followed at the Home Office is certainly objectionable, the Home Secretary has no means of confronting witnesses, and testing the truth of their evidence in the manner which is considered satisfactory in all judicial proceedings. Subject, however, to any change in my opinion on this question which may be produced by the measure of Sir F. Kelly, should it be brought forward during the next session, I cannot but think that the plan suggested by Lord Brougham is the best that could be adopted. His suggestion was, that a Committee of the Privy Council should be appointed, in the same manner as the Judicial Committee, to whom it should be lawful for her Majesty to refer any question that might arise as to whether any sentence should be executed, and that such committee should investigate the facts alleged and report thereon to her Majesty. A committee, admirably qualified for considering such questions, might be formed of ex-judges; and under any circumstances, the expense of conducting the investigation would be much smaller and the delay less, than would be possible under any scheme which proposed a new trial, as the means of correcting an improper verdict.

There is another matter connected with criminal procedure on which I am anxious to say a few words before concluding. I refer to the consolidation of the statute law on this subject. A Bill of this nature was prepared by Mr. T. Chandless, junior, and myself in the year 1856, for the statute law commission; but nothing has been since done with this Bill, as far as I am aware, except its being laid on the table of the House of Lords at the end of the session of 1856 by the then Lord Chancellor, although its importance in a practical point of view is certainly not less than that of the Criminal Law Consolidation Bills which were brought in during last session, and which it was understood the Government were anxious to press forward.

The Bill to which I refer consolidated forty-two Acts and parts of Acts relating to procedure on the trial of indictable offences. The statutes on this subject commence with the 6th year of Henry VI., and the different provisions are scattered over the statute book in a manner sufficiently perplexing to any one who is not content to rely on the authority of the text-books. The Bill contained 139 clauses, and combined the different provisions according to an arrangement which was deemed the most convenient. That arrangement may perhaps be liable to objection; but at all events, the Bill brought together the whole of the statutes on the subject of criminal procedure, and exhibited them in a manner which would have been highly useful for practical purposes. But whatever may be thought of the Bill to which I refer, there can be no doubt that a consolidation of the statute law relating to criminal procedure is highly desirable, and ought speedily to be accomplished.

HINTS TO ARTICLED CLERKS.

No. II.

THE ARTICLED CLERK'S CONDUCT IN THE OFFICE

(*Continued from p.* 286).

During the first few months that the clerk is in the office, he will probably find his thoughts sufficiently occupied by learning just what any law stationer must know—the differences between rough drafts and fair copy drafts; between foolscap and brief paper; and a hundred other minutiæ which seem unimportant enough, but are, nevertheless, necessary to be known. We remember hearing a shrewd old solicitor, who did the conveyancing for half a county, attribute part of his success to the fact that he never allowed a dirty-looking draft, or a badly engrossed deed, to go out of his office. No unprofessional man, said he, can tell whether a deed is properly drawn, but everybody knows at once whether it is well written. Unless during his clerkship the attorney has paid some attention even to such matters as the proper engrossment of deeds, he will not be able to exercise that amount of supervision over his clerks which will ensure their turning out their work in the most approved fashion; and while he is putting forth all his skill and learning *to draw* effectual assurances in the law, he may be losing a client merely because his clerk has sent home to him a shabby-looking engrossment. However, when the articled clerk has acquired some knowledge of the mere mechanical part of his work, he should begin seriously to endeavour to learn its scope and meaning. It is necessary that he should perform many of the duties of the copying clerk; but he must not be a mere copying clerk. While his pen is busy, his brain should not be at rest. For example, let us suppose that he is copying an abstract of title. He may do this intelligently or unintelligently. He will do it unintelligently if he is content merely to make a neat copy, and to hand it in to his principal, knowing as much about it as if he had copied so many pages from a book in an unknown tongue. He will do it intelligently if, as he proceeds, he notices the successive links in the chain of title, any breaks which may occur in that chain, and asks himself how they may best be supplied. The dullest man, however, can hardly suppose that he will learn much from *merely* copying, unless he thinks about his work; but he may be deceived greatly as to the valuable results to be derived from *drawing* instruments. It is not an uncommon thing for the principal to place in the clerk's hands instructions for a conveyance or mortgage, and for the clerk to fill up the outline

thus presented to him by culling a selection of forms from *Jarman* or *Davidson*. Now, this clearly requires more thought than simple copying, and yet the clerk who does it may fail to derive much benefit from it. The instructions placed before him are generally so precise and definite, as not to leave much room for mistake; and wherever this is the case, drawing does not, of itself, convey much more instruction than copying. Where such instructions are given, the clerk, not satisfied with merely following them, should look at the abstract, and at the contract of sale, in order to ascertain how it is that such and such persons are to be made parties, and that such and such covenants and provisoes are to be inserted. If, indeed, his principal should hand to him the abstract and the contract, merely telling him to draw such a conveyance as he thinks is required, *then* he *must* look into the matter for himself, and it would be well, perhaps, if this course was more frequently followed, as it would compel the clerk to fall back upon his own resources. Generally speaking, however, our readers will find that they may, *if they like*, walk in leading strings during the whole of their clerkship. We wish to impress it upon them that they ought not to be content to do so. They *must* walk alone when once they have been admitted, and they will not find it a very easy task unless they have accustomed themselves to it during their clerkship.

Wherever it is practicable the clerk should endeavour to see the whole course of the matters before him, from their commencement to their conclusion. Thus, to revert to conveyancing, from which we have already drawn an illustration, he should, when he knows that a sale by auction of real property is about to be conducted by his principals, peruse the advertisement and particulars and conditions, attend the sale, go through the abstract, see what requisitions are made upon it, and how they are complied with, and finally criticise the draft conveyance prepared by the purchaser's solicitor. In the same way he should watch actions and suits from the beginning to the end of the chapter, not forgetting that most important finale to all legal business—the bill of costs. It will, of course, frequently happen that the clerk will not have the opportunity of seeing all the steps which are taken in the progress of conveyancing and contentious business; but he will always be able to see the bills made out against clients for work done, and in them he will, if they are properly drawn, find a complete history of the transaction. Viewed in this light, it will be seen that hardly any documents in the office are more deserving of the clerk's study and attention, answering the same purpose as charts and maps to the traveller or navigator.

Much benefit will be derived from a frequent attendance at courts of all kinds, from those in Westminster-hall down to petty sessions. We are inclined to think, from our own experience, that many articled clerks are too prone to neglect this very interesting mode of self-improvement, and that they consequently lose some golden opportunities of success. When a young man commences his career as an attorney, it is of the highest importance to him that he should not only be learned in his profession, but that he should be able to show that he is so. Now it is not very easy to demonstrate to a client that his conveyance or mortgage is drawn upon the most scientific principles, and displays a profound acquaintance with real property law, but a client can very easily judge whether his attorney has or has not conducted his case well before justices or before a county court. He cannot, it is true, pronounce any opinion worth having upon the soundness of his advocate's law, but he is quite competent to form a judgment as to his coolness, his self-possession, his tact, and his fluency or otherwise of his speech. A man who is not familiar with the routine of courts soon shows his defects to the most inexperienced observer; whereas one who has diligently frequented them not only acquires a great deal of real knowledge but also the valuable art of concealing his ignorance. In the office the articled clerk may learn a great deal of law, but in courts he learns how men and facts are to be dealt with—a knowledge by which many men whose law might almost be represented by a cypher, have attained to name and fortune. And indeed, there is one head of law which, for all useful and practical purposes must be studied in court, and that is the law of evidence. We do not mean that the student ought not to read *Taylor* or *Best*, or whatever treatise on the subject he may prefer; but this reading will be of very little service to him unless he assiduously complements it by observing how evidence is adduced in actual trials; what objections are made to its admissibility and how those objections are met. And here we think it desirable to caution the student against a mistake into which he is not unlikely to fall if he is articled in an office where the business mainly, if not altogether, consists of conveyancing. There are many such offices and, owing to the rank they hold, parents are very naturally disposed to select them as the avenues through which their sons are to be introduced into the profession. The clerk, however, whose lot is cast in such an office while attending diligently to the very valuable instruction he may receive there in real property law, must remember that conveyancing is only one branch of the profession, and that he ought assiduously to embrace every opportunity of acquiring a knowledge of the other branches. There is a disposition in conveyancers, how it arises we know not, rather to look down upon advocates and common law practitioners. The young attorney, however, will not generally find that his earliest clients are vendors and purchasers, mortgagors and mortgagees, but rather debtors and creditors, plaintiffs and defendants, prosecutors and prisoners. If during his clerkship he has addicted himself entirely to the study of conveyancing, he will probably find himself outstripped in the race for success by men of much less ability and learning; but who have directed their attention to that class of business which is usually confided to junior practitioners. We have known men of great personal respectability, and possessing a thorough knowledge of conveyancing, who have failed in the profession, because they had neither the connection nor the capital to command that business with which they were acquainted, while they knew nothing of advocacy or common law. On the other hand, a fluent tongue, a clear head, a respectable, although by no means a profound knowledge of the law of contracts, of evidence, and of the routine of courts, have proved invaluable to their possessors as the foundation of professional reputation. We do not care how often we seem to repeat ourselves if we can only impress upon the clerk that however desirable it may be, and undoubtedly is, that he should be a sound lawyer, it is equally necessary that he should possess tact, knowledge of actual business, of men, and of the world. Such knowledge is not to be acquired from books, or even at the desk, but is to be picked up now by a chat with an old managing clerk, now in an auction room, now in courts, and in a hundred different ways which will readily suggest themselves to an intelligent young man. We think it right to warn our readers against a practice by which we wasted much of our own time, and by which they may perhaps be tempted to waste much of theirs, and that is the copying of precedents. We have in our possession a large volume of manuscript common forms, which during nine years of practice we never used, and from the copying of which we learned almost nothing. There are now so many valuable printed collections of precedents that it is mere labour in vain to make a collection for one's self with a view to future practice, while the time spent in copying would be much more usefully employed in studying principles or in attending to actual office business. During the first year of his clerkship, the student who will meet with many words and terms of art which are utterly unknown to him will find it very advantageous to have lying on his desk Mr. Wharton's Law Lexicon, to which he may refer for information. When the course of his reading has become a little more extended, he will be able to refer to the ordinary treatises and text books, because he will then have learned where subjects can be best looked up; but in the meantime he will find Mr. Wharton's dictionary arrangement invaluable. We may now conclude these hints with regard to the conduct in the office, by impressing upon the mind of the articled clerk the fact that he will find it to his interest, as it is his duty, to make himself useful to his principal. If he does so he will be gradually intrusted with business entailing more of responsibility and requiring more of care and thought in its transaction. Thus his opportunities of learning will be vastly increased, and not only so, for he will build up for himself a character which upon his entrance into professional life will be of the utmost advantage to him.

(*To be continued*)

Public Companies.

BILLS IN PARLIAMENT

For the Formation of New Lines of Railway in England and Wales.

The standing orders have been dispensed with in the following case:—

Rhyl Harbour Bridge and Railway.

The preambles of the following Bills have passed the committee:—

ASCHURCH TO EVESHAM.
BLACKPOOL AND LYTHAM.
TIBSHELF TO TEVERSALL.
WHITACRE TO NUNEATON.

The following Bills are unopposed:—

CLEATON AND EGREMONT.
BRISTOL AND SOUTH WALES UNION.
NORTH EASTERN (Castleton and Grosmont Branch).
WHITEHAVEN.
WITNEY.

The following Bills have been referred to committees:—

ALRESFORD AND WINCHESTER JUNCTION.
ALTON.
ANDOVER AND REDBRIDGE.
BISHOP'S STORTFORD.
CHARD AND TAUNTON.
COLNE VALLEY AND HALSTEAD.
DEVON CENTRAL.
DUNMOW AND BRAINTREE.
EXETER AND EXMOUTH.
HADHAM AND BUNTINGFORD.
HENLEY-IN-ARDEN.
LONDON, BUCKS, AND WEST MIDLAND.
LONDON AND BURY ST. EDMUNDS.
LYNN AND HUNSTANTON.
MARLBOROUGH.
MARTON AND HARBURY.
MID DEVON AND CORNWALL.
MID EASTERN AND GREAT NORTHERN JUNCTION.
NORTH SOMERSET.
PETERSFIELD (Southampton Extension).
POOLE AND DORSET JUNCTION.
RYDE APPROACHES.
SALISBURY.
SHERBORNE.
SHIRLEY, SOUTHAMPTON, AND NETLEY.
SOMERSET CENTRAL.
UXBRIDGE AND RICKMANSWORTH.
WARE.
WITNEY.
WYCOMBE EXTENSION.

REPORTS AND MEETINGS.

BLYTHE AND TYNE RAILWAY.

At the half-yearly meeting of this company, held on the 4th inst., the following dividends were declared, viz.:—10 per cent. on original preference shares; 9½ per cent. on ordinary and extension shares; and 5 per cent. on the A & B preference shares, leaving £1,215 to be carried to the reserve fund.

BOSTON, SLEAFORD, AND MIDLAND COUNTIES RAILWAY.

At the half-yearly meeting of this company held on the 26th ult. a dividend of 2s. 6d. per share was declared.

BRADFORD, WAKEFIELD, AND LEEDS RAILWAY.

At the half-yearly meeting of this company held on the 5th inst. a dividend of 6 per cent. per annum was declared, payable on the 11th inst. This leaves a balance of £4,625 to be carried forward. The dividend paid for the past three years has averaged £5 1s. 8d. per cent. per annum.

BRISTOL AND EXETER.

At the half-yearly general meeting of this company held on the 28th ult. a dividend at the rate of 5½ per cent. per annum for the last half-year was declared.

CALEDONIAN RAILWAY.

The directors by their report recommend a dividend of 5½ per cent. on the ordinary stock for the last half-year.

EASTERN UNION RAILWAY.

The directors recommend that a dividend at the rate of £2 10s. per cent. per annum on the A stock and of £1 13s. 4d. per cent. per annum on the B stock should be declared for the past half-year.

GLASGOW AND SOUTH WESTERN RAILWAY.

At the half-yearly meeting of this company held on Wednesday, a dividend at the rate of 5½ per cent. on the ordinary stock was agreed to.

HEREFORD, ROSS, AND GLOUCESTER RAILWAY.

At the half-yearly meeting, held on the 28th ult., a dividend of 5 per cent. per annum on the preference shares, and of 4s. per share on the ordinary shares, were declared.

LEEDS, BRADFORD, AND HALIFAX JUNCTION RAILWAY.

The directors by their report recommend that a dividend be declared at the rate of 6 per cent. per annum. This will leave a balance of £1,742 to be carried to the reserve fund, which will then amount to £6,242.

MIDLAND GREAT WESTERN RAILWAY,

The directors will recommend at the half-yearly meeting on the 21st inst. a dividend at the rate of 5 per cent. per annum free of income tax, for the last half-year.

SCOTTISH NORTH EASTERN RAILWAY.

The directors propose that a dividend at the rate of 10s. per cent. per annum on the Aberdeen ordinary stock and a dividend of 4¾ per cent. per annum on the Scottish Midland ordinary stock of this company be declared for the half-year ending 31 January.

SHREWSBURY AND HEREFORD RAILWAY.

At the half-yearly meeting of this company held on the 25th ult. the guaranteed dividend of 4½ per cent. per annum was declared.

SOUTH STAFFORDSHIRE RAILWAY.

At the half-yearly meeting of this company held on the 28th ult. a dividend of 5s. 2d. per share was declared.

SOUTH YORKSHIRE RAILWAY.

At the half-yearly general meeting of this company held on the 27th ult. a dividend on the guaranteed shares at the rate of 4½ per cent. and on the ordinary stock at the rate of 4¼ per cent. per annum less income tax were declared.

STOCKPORT, DISLEY, AND WHALEYBRIDGE RAILWAY.

At the half-yearly meeting of this company held on the 28th ult. a dividend at the rate of 2½ per cent. per annum was declared.

WHITEHAVEN JUNCTION RAILWAY.

The directors by their report recommend that a dividend on original shares of 8 per cent. per annum be declared for the last half-year.

WHITEHAVEN AND FURNESS JUNCTION RAILWAY.

The directors recommend that a dividend of 8s. per share, being at the rate of 4 per cent. per annum, be declared upon the original shares of the company.

Sheriffs, Under-Sheriffs, Deputies, and Agents, for 1861.

Counties, &c.	*Sheriffs.*	*Under-Sheriffs.*	*Deputies and Town Agents*
BEDFORDSHIRE	J. Tucker, Esq., Pavenham, Bedford.	T. Wesley, Esq., Bedford.	Shum & Crossman, 3, King's-road, W.C.
BERKSHIRE	H. L. Hunter, Esq., Beech-hill, Reading	J. J. Blandy, Esq., High-grove, Reading	Gregory, Skirrow, & Co., 1, Bedford-row,
BERWICK-UPON-TWEED	J. M. Meggison, Esq., Berw-on-Tweed.	S. Saunderson, Esq., Berwick.	Geo. Knox, 3, Bloomsbury-square, W.C.
BRISTOL	Joshua Saunders, Esq., Bristol.	W. Ody Hare, Esq., Bristol.	Bridges & Son, Red Lion-square, W.C.
BUCKINGHAMSHIRE	Sir A. Rothschild, Ashton Clinton.	J. James, Esq., Aylesbury.	Meyrick & Gedge, 4, Storey's-gate.
CAMBRIDGE & HUNTS	E. Hicks, Esq., Wilbraham Temple.	Clement Francis, Esq., Cambridge.	J. & C. Cole, 36, Essex-street, Strand
CANTERBURY	Herbert T. Sankey, Esq., Canterbury.	Sankey & Son, Canterbury.	Kingsford & Dorman, 23, Essex-st., W.C.
CHESHIRE	Edward H. Glegg, Esq., Blackford-hall.	John Hostage, Esq., Chester.	G. F. Hudson, 23, Bucklersbury, E.C.
CHESTER (City)	James Rowe, Esq., Chester.	John Hostage, Esq., Chester.	Chester & Toulmin, 11, Staple-inn, W.C.
CORNWALL	John F. Basset, Esq., Tehidy, Redruth.	P. P. Smith, Esq., Truro, Cornwall.	Gregory, Skirrow, & Co., 1, Bedford-row.
CUMBERLAND	T. Ainsworth, Esq., The Flosh, Carlisle.	George Gill Mounsey, Esq., Carlisle.	Gray & Mounsey, 9, Staple-inn. W.C.
DERBYSHIRE	William T. Cox, Esq., Spondon-hall.	G. H. R. Cox, Esq., Market-pl., Derby.	W. & H. P. Sharp, 99, Gresham-house.
DEVONSHIRE	Sir J. T. B. Duckworth, Weare.	Thomas E. Drake, Esq., Exeter.	G. F. Cooke, 35, Southampton-buildgs.,
DORSETSHIRE	R. H. O. Swaffield, Esq., Westdown-lodge, Weymouth.	Thomas Coombs, Esq., Dorchester.	Rickards & Walker, 29, Lincoln's-inn-fields, W. C.
DURHAM	R. L. Pemberton, Esq., Barnes.	Wm. Emerson Wooler, Esq., Durham.	J. Crowdy, 17, Serjeant's-inn, Fleet-st.
ESSEX	G. A. Lowndes, Esq., Barrington-hall.	Thos. Morgan Gepp, Esq., Chelmsford. (A. U., Gepp & Veley, Chelmsford.)	Hawkins, Bloxam, & Hawkins, 2, New Boswell-court, W.C.
EXETER	H. Sparkes Bowden, Esq., Exeter.	Kingsland Snelgrove, Esq., Exeter.	Mead & Daubeny, 2, King's-bench-walk.
GLOUCESTERSHIRE	J. Waddingham, Esq., Winchcombe.	J. Burrup, Esq., Berkeley-st., Gloucester.	White & Sons, 11, Bedford-row, W.C.

Counties, &c.	Sheriffs.	Under-Sheriffs.	Deputies and Town Agents.
Gloucester	W. Nicks, Esq., Gloucester.	William Matthews, Esq., Gloucester.	W. C. Smith, 31, Lincoln's-inn-fields.
Hampshire	W. H. Deverell, Esq., Purbrook-park, near Cosham.	T. B. Woodham, Esq., Winchester.	Ridsdale & Craddock, 5, Gray's-inn-sq.
Herefordshire	R. H. Lee Warner, Esq., Tiberton-ct.	N. Lanwarne, Esq., Hereford.	G. F. Cooke, 35, Southampton-buildgs.
Hertfordshire	W. Jones Loyd, Esq., Abbotts Langley.	Philip Longmore, Esq., Hertford (A.U. Longmore & Sworder, Hertford).	Hawkins, Bloxam, & Hawkins, 2, New Boswell-court, W.C.
Huntingdon & Camb.	E. Hicks, Esq., Wilbraham Temple.	Clement Francis, Esq., Cambridge.	J. & C. Cole, 36, Essex street, W.C.
Kent	A. Kandall, Esq., Foley-ho., Maidstone.	F. Scudamore, Esq., Maidstone.	Palmer, Palmer, & Bull, 24, Bedford-row
Kingston-upon-Hull	Edward Dannatt, Esq., Kingston.	J. Thomas Tenney, Esq., Kingston.	No town agent to be appointed.
Lancashire	Sir H. de Trafford, Bart., Trafford-pk.	T. Darwell, Esq., Manchester (A.U., Wilson, Deacon, & Wilson, Preston).	Ridsdale & Craddock, 5, Gray's-inn-sq.
Leicestershire	Richard Sutton, Esq, Skeffington.	John Wooley, Esq., Loughborough.	Williamson, Hill, & Co., 10, Gt. James-st.
Lichfield	T. Arthur Griffith, Esq., Lichfield.	J. Philip Dyott, Esq., Lichfield.	S.B. Somerville, 48, Lincoln's-inn-fields.
Lincoln	John Norton, jun., Esq., Lincoln.	Thurston George Dale, Esq., Lincoln.	Taylor & Co., 28, Gt. James-st., W.C.
Lincolnshire	W. Cracroft Amcotts, Esq., Kettlethorpe	F. W. Tweed, Esq., Horncastle (A.U., Henry Williams, Esq., Lincoln).	Taylor & Co., 28, Great James-street, Bedford-row, W.C.
London (Plural) / Middlesex (Singular)	James Abbiss, Esq., Gracechurch-street. / Andrew Lusk, Esq., Fenchurch-street.	O. C. T. Eagleton, Esq., 64, Newgate-st. (A.U., W. Burchell, Esq., 24, Red-Lion-square).	Mr. Secondary Potter, 5, Basinghall-street.
Monmouthshire	J. P. Carruthers, Esq., Chepstow.	W. E. Toye, Esq., Chepstow.	Burchell & Hall, 24, Red Lion-sq., W.C.
Newcastle-upon-Tyne	T. Hedley, Esq., Newcastle-upon-Tyne.	G. W. Hodge, Esq., Newcastle-upon-Tyne.	White & Sons, 11, Bedford-row, W.C.
Norfolk	John Thomas Mott, Esq., Barningham Hanworth.	Herbert Jarret Johnson, Esq., Cromer, (A.U., C. Taylor, Esq., Norwich).	Torr, Janeway, & Tagart, 38, Bedford-row, W.C.
Northamptonshire	John E. Severne, Esq., Thenford-house.	Arthur Weston, Esq., Brackley.	J. W. & W. Flower, 17, Gracechurch-street, City, E.C.
Northumberland	William John Pawson, Esq., Shawdon.	Benjamin Woodman, Esq., Morpeth.	Torr, Janeway, & Tagart, 38, Bedford-row, W.C.
Norwich	Donald Dalrymple, Esq., Norwich.	Francis G. Foster, Esq., Norwich.	J. Crosby, 3, Church-court, Old Jewry.
Nottingham	William Lambert, Esq., Nottingham.	Christopher Swann, Esq., Nottingham.	Sharpe, Jackson, & Parker, 41, Bedford-row, W.C.
Nottinghamshire	Henry Savile, Esq., Rufford Abbey.	John Brewster, Esq., Nottingham.	Loftus & Young, 10, New-inn, W.C.
Oxfordshire	Henry Birch Reynardson, Esq., Adwell.	John Marriott Davenport, Esq., Oxford.	Taylor & Co., 28, Great James-street.
Poole	Charles Augustus Lewin, Esq., Poole.	William Parr, Esq., Poole.	Davies, Son, Campbell, & Reeves, 17, Warwick-street, W.
Rutlandshire	Genl. W. Fludyer, Ayston, Uppingham.	Benjamin Adam, Esq., Oakham.	William Mardon, 99, Newgate-st., E.C.
Shropshire	Geo. Pritchard, Esq., Broseley, Shropshire.	Geo. Potts, Esq., Broseley, Shropshire (A.U., J. J. Peele, Esq., Shrewsbury).	Bell, Brodrick, & Bell, Bow-churchyard
Somersetshire	F. W. Newton, Esq., Barton Grange.	J. Nicholetts, Esq., South Petherton.	H. B. Jones, 22, Austin-friars, E.C.
Southampton	John Carter, Esq., Southampton.	W. Hickman, Esq., Southampton.	W. & E. Dyne & Harvey, 61 Lincoln's-inn-fields, W.C.
Staffordshire	John W. Philips, Esq., Heybridge.	Robert William Hand, Esq., Stafford.	Abbott, Jenkins & Abbott, 8, New-inn.
Suffolk	E. R. S. Bence, Esq., Kentwell-hall.	C. Cheston, Esq., Gt. Winchester-st. (A. U., J. Sparke, Esq., Bury St. Edmunds.	White & Sons, 11, Bedford-row. W.C.
Surrey	Samuel Gurney, Esq., Carshalton.	W. H. Smallpiece, Esq., Guildford.	Field & Roscoe, 36, Lincoln's-inn-fields.
Sussex	G. Gatty, Felbridge-pk., E. Grinstead.	G. P. Clarkson, Esq., Tunbridge Wells.	Abbott, Jenkins & Abbott, 8, New-inn.
Warwickshire	R. Greaves, Esq., The Cliff, Warwick.	Thomas Heath, Esq., Warwick.	Palmer, Palmer and Bull, 24, Bedford-row, W. C.
Westmoreland	W. Hopes, Esq., Brampton Crofts, Appleby.	John Heelis, Esq., Appleby.	Taylor & Co., 28, Gt. James-sreet.
Wiltshire	Charles Penruddocke, Esq., Compton Chamberlaine.	West Awdry, Esq., Chippenham, Wilts.	Gray & Mounsey, 9, Staple-inn, W. C.
Worcester	Joseph Firkins, Esq., Worcester.	Robert Tomkins Rea, Esq., Worcester.	Lewis, Wood & Street, 6, Raymond-buildings, Grays-inn, W. C.
Worcestershire	James Moilliet, Esq., Abberley-hall, Worcester.	Arthur Ryland, Esq., Birmingham. (A. U., Gillam & Sons, Worcester)	Hall & Hunt, 11, New Boswell-court.
York	T. Cabry, Esq., Holdgate-villa, York.	Henry Wood, Esq., Pavement, York.	Sharpe, Jackson & Parker, 41, Bedford-row, W. C.
Yorkshire	Sir G. Orby Wombwell, Newburgh-pk., York.	William Gray, Esq., York.	No Town Agent to be appointed.
North Wales.			
Anglesey	W. Bulkeley Hughes, Esq., Plas Coch.	John Williams, Esq., Beaumaris.	Bell, Brodrick & Bell, Bow Churchyard
Carnarvonshire	Henry M'Kellar, Esq., Sygunfawr.	Edward Breese, Esq., Portmadoc.	Abbott, Jenkins, & Abbott, 8, New-inn.
Denbighshire	C. J. Tottenham, Esq., Plas Berwyn, Llangollen.	John C. Lethbridge, Esq., Westminster (A.U., M. Louis, Esq., Ruthin).	J. D. Finney, 6, Furnival's-inn, Holborn, W.C.
Flintshire	Robert Howard, Esq., Broughton-hall.	A. T. Roberts, Esq., Mold, Flintshire.	Simpson, Roberts, & Simpson, 62, Moorgate-street, E.C.
Merionethshire	David Williams, Esq, Dendraeth Castle.	Edward Breese, Esq., Portmadoc.	M'Leod & Cann, 51, Lincoln's-inn-fids.
Montgomeryshire	J. Heyward Heyward, Esq., Crosswood.	W. D. Harrison, Esq., Welchpool.	Gregory & Skirrow, 1, Bedford-row.
South Wales.			
Breconshire	J. W. Fredericks, Esq., Pontneath Vaughan.	Henry Maybery, Esq., Brecon.	Gregory, Son, & Clark, 12, Clement's-inn, W.C.
Cardiganshire	Pryse Loveden, Esq., Gogerddan.	Thomas Davies, Esq., Cardigan.	Robinson & Preston, 35, Linc-inn-fids.
Carmarthenshire	A. H. S. Davies, Esq., Pentre.	Thomas Jones, Esq., Llandovery.	Gregory, Son, & Clark, 12, Clement's-inn, W.C.
Carmarthen	T. Isaac, Esq., King-st., Carmarthen.	W. T. Thomas, jun., Esq., Carmarthen	Chilton & Burton, 25, Chancery-lane.
Glamorganshire	Edward R. Wood, Esq., Stouthall.	Thomas Masters Dalton, Esq., Cardiff.	Loftus & Young, 10, New-inn, Strand.
Haverfordwest	William Lewis, Esq., Haverfordwest.	William Davies, Esq., Haverfordwest.	T. H. Smith, 1, Frederick's-pl, Old Jewry
Pembrokeshire	Edward Wilson, Esq., Hean Castle.	William Davies, Esq., Haverfordwest.	T. H. Smith, 1, Frederick's-pl, Old Jewry
Radnorshire	George Greenwood, Esq., Aberant.	Evan Vaughan, Esq., Builth.	White & Sons, 11, Bedford-row, E.C.

Court Papers.

Court for Divorce and Matrimonial Causes.

The Right Honourable the Judge Ordinary will proceed with the causes for dissolution of marriage to be heard before himself *without juries* on Monday, the 18th day of March, 1861, in the event of the causes to be tried by *special juries* being disposed of.

Divorce Registry, March 1, 1861.

Births, Marriage, and Deaths.

BIRTHS.

BRAITHWAITE—On March 5, the wife of Joseph Bevan Braithwaite, Esq., Barrister-at-Law, of a son.

FOSTER—On Feb. 24, the wife of Thomas Gregory Foster, Esq., Barrister-at-Law, of a daughter.

SOLOMON—On March 1, the wife of Saul Solomon, Esq., Solicitor, of a son.

STEPHEN—On Feb. 27, the wife of J. F. Stephen, Esq., Barrister-at-Law, of a daughter.

MARRIAGE.

STURGESS—WILKINS—On Feb. 28, at Banff, Charles William Sturgess, Esq., Hull, to Lucy Sarah, daughter of Martin J. Wilkins, Esq., late Solicitor-General of Nova Scotia.

DEATHS.

BATHURST—On Feb. 28, aged 49, Mary Anne, daughter of the late — Bathurst, Esq., formerly Solicitor, of Rochford, Essex.

HALL—On March 4, Mary Alice, daughter of Henry Hall, Esq., Solicitor, Ashton-under-Lyne, aged 7 years.

HULME—On March 1, in the 57th year of his age, John Walton Hulme, Esq., late Her Majesty's Chief Justice of the Supreme Court, Hongkong.

LLEWELLIN—On March 6, Henry Llewellin, Esq., Solicitor, in his 55th year.

MOCKLER—On Feb. 24, at Dublin, William Mockler, Esq., Barrister-at-Law, aged 48.

MYERS—On Feb. 2, at Linsted, near Spanish-town, Jamaica, the Rev. John Monson Myers, B.A., Oxon, Head Master of the Jamaica Free School, Walton, St. Anne's, and youngest son of the late William Myers, Esq., Crown Solicitor for the Island of Jamaica.

PATRICK—On Feb. 28, at Edinburgh, William Patrick, Esq., of Roughwood, Writer to the Signet, in his 92nd year.

REEVE—On Feb. 24, Fanny, widow of Andrews Plumsted Reeve, Esq., late of Red Lion-square, Solicitor.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, March 8, 1861.

WILLIAMS, JOHN CHARLES, & HENRY KIMBER, Solicitors & Attorneys, 3, Lancaster-place, London (Goodwin, Williams, & Kimber); by mutual consent. March 6.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, March 5, 1861.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (Registered). Order to wind up, V. C. Wood. Feb. 23.

FRIDAY, March 8, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED).—V. C. Wood will, on March 21, at 12.30, appoint an official manager or official managers of this company. Creditors to prove their debts before V.C. Wood.

ERA ASSURANCE SOCIETY.—V.C. Wood will, on March 26, at 3, proceed to make a call on all the contributories of the society of 30s. per share.

MEXICAN AND SOUTH AMERICAN COMPANY.—The Master of the Rolls will, on March 13, at 2, proceed to make a call for £11 5s. per share on the several contributories upon whom no call has hitherto been made.

LIMITED IN BANKRUPTCY.

LITTLE DOWN AND EBBER ROCKS MINERAL AND MINING COMPANY (Limited).—Com. Holroyd has peremptorily ordered a call of seventeen shillings and sixpence per share be made on the several contributories of the said company, to be paid to Mr. Charles Lee, Official Liquidator, 20, Aldermanbury, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 5, 1861.

ANSANDALE, WILLIAM, Esq., formerly of Foley-place, St. Marylebone, Middlesex. Stephenson, Solicitor, 7, Great Queen-street, St. James's-park, Westminster. April 17.

DAVIS, BENJAMIN, Gent., 15, Church street, Chelsea, Middlesex. Wrentmore & Son, Solicitors, 43, Lincoln's-inn-fields, London. April 30.

EBBELS, ROBERT, formerly of Wolverhampton, and afterwards of Dawlish, Devonshire. Janson, Cobb, & Pearson, Solicitors, 4, Basinghall-street, London. March 31.

GOODSON, WILLIAM, Esq., Surgeon, R.N., Devonshire-street, Portland-place, Middlesex. Oriel, Solicitor, 36, Alfred-place, Bedford-square, Middlesex. March 30.

RUSSELL, JAMES, Sunderland. Bramwell, Solicitor, 50, West Sunniside, Sunderland. May 22.

VARLO, LOUISA, Spinster, formerly of Norwich, and late of Portsmouth. Lewis, Wood, & Street, Solicitors, 6, Raymond-buildings, Gray's-inn. April 10.

WEBB, WILLIAM, Plasterer, Coventry. Troughton, Lea, & Kirby, Solicitors, 16, Little Park-street, Coventry. April 15.

FRIDAY, March 8, 1861.

BOURDIEU, EMILY, Spinster, 2, Cadogan-road, Surbiton, Kingston-upon-Thames. Lewis, Wood, & Street, Solicitors, 6, Raymond-buildings, Gray's-inn, London. April 13.

CHARLTON, GEORGE, Tea Dealer & Grocer, 48, Charing-cross, Middlesex and 6, Acre-lane, Brixton. Hussey, Solicitor, 20, Great Knight Rider-street, Doctors'-commons. April 12.

COATES, ROBERT, Gent., Lowther-street, York. I., J. P., & H. Wood, Solicitors, York. May 1.

COSTER, JOHN, Farmer, Bradwell-next-the-sea, Essex. Clarke & Morice, Solicitors, 29, Coleman-street, London. April 30.

COX, THOMAS, Tipton, Staffordshire. Caddick, New-street, West Bromwich. April 1.

MAYO, Rev. CHARLES, Clerk, Colesgrove, Cheshunt, Herts. Ware & Westhall, Solicitors, 1, Copthall-court, London. May 1.

RICH, GEORGE, Wheelwright & Farmer, Langton-en-le-Morthen, Yorkshire. Marsh & Edwards, Solicitors, Rotheram, Yorkshire. April 12.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 5, 1861.

BAKER, MARY, Widow, Bromley-common, Kent. Harris v. Webb. M. R. April 12.

BROUGHTON, FREDERICK, Gent., High-street, Camden-town, Middlesex. Broughton v. Oswald, V. C. Kindersley. April 12.

BROUGHTON, CHARLOTTE, Spinster, 8, Belmont-place, Wandsworth-road, Surrey. Broughton v. Oswald, V. C. Kindersley. April 10.

GEOGHEGAN, THOMAS, Tailor, 94, Jermyn-street, St. James's, Middlesex. Landon v. Fallon, V. C. Stuart. March 19.

PALMER, GEORGE, Farmer, East Harling, Norfolk. Wilkinson v. Palmer, M. R. March 27.

SMITH, LEVI, Blacksmith, Commonside, Kingswinford, Staffordshire. Baynton v. Smith, M. R. March 27.

WOOD, JACOB, Headingley, Leeds. Wood v. Bingley, V. C. Stuart. April 8.

YOUNG, HENRY, Farmer, Twyford, Southampton. Cordery v. Young, M. R. April 12.

FRIDAY, March 8, 1861.

COATES, BENJAMIN, Coachmaker, North End, Fulham, and Park-lane, St. George, Hanover-square, Middlesex. Coates v. Coates, M.R. April 10.

HANCOCK, HANNAH, Spinster, 2, Westmoreland-place, Bayswater, Middlesex, and 17, Oxendon-street, Haymarket, Middlesex. Hancock v. Hancock, M.R. April 8.

LITTLE, ROBERT, Gent., 1, Nelson-street, Mile End Old Town, Middlesex. Ratcliff v. Ratcliff, V.C. Stuart. April 10.

MATTHEWS, JOHN, Kew, Surrey. Ward v. Pilcher, M.R. April 8.

MERREY, CHARLES, Jun., Accountant, Burton-upon-Trent, Staffordshire. Mosley v. Merrey, M.R. April 8.

Assignments for Benefit of Creditors.

TUESDAY, March 5, 1861.

BODGER, WILLIAM, Builder, Newcastle-upon-Tyne. *Sols.* Mather & Cockeroft, 14, Grey-street Newcastle-upon-Tyne. Feb. 25.

BOFFEY, SAMUEL, Farmer, New Springs, Talk-on-the-Hill, Staffordshire. *Sol.* Sherratt, Talk-on-the-Hill. Feb. 12.

COGHLAN, JOSEPH, Stuff Merchant, Bradford. *Sols.* Terry & Watson, Market-street, Bradford. Feb. 27.

COTTON, MATTHEW, & WILLIAM WOOD, Joiners & Builders, Kidsgrove, Staffordshire. *Sol.* Sherratt, Talk-on-the-Hill. Feb. 18.

GARFORTH, EDWARD, & REUBEN GARFORTH, Manufacturers, Earlsheaton, Dewsbury, Yorkshire. *Sols.* Scholes & Son, Dewsbury. Feb. 23.

GIBBINGS, WILLIAM, Innkeeper, Stonehouse, Devonshire. *Sol.* Fowler, Plymouth. Feb. 27.

GILLETT, JOHN, Agricultural Implement Maker & Farmer, Brailes, Warwick. *Sols.* Hancock & Hiron, Shipston-on-Stour. Feb. 27.

HORSFALL, WILLIAM, Tinner & Ironmonger, Huddersfield. *Sol.* Drake, Huddersfield. Feb. 21.

KENT, WILLIAM, Farmer, Therfield, Hertfordshire. *Sol.* Freeland, Saffron Walden. Feb. 25.

MABERLY, GEORGE FREDERICK, & WILLIAM HENRY MABERLY, Coachmakers, Lambourne, Berks. *Sol.* Astley, Hungerford. March 1.

SMITH, STEPHEN WEST, Miller, Laceby, Lincolnshire. *Sols.* Ingoldby & Bell, Louth. Feb. 27.

THIRLWALL, THOMAS, Enginewright, Gateshead, Durham. *Sols.* Harle & Co., 2, Butcher-bank, Newcastle-upon-Tyne. Feb. 25.

FRIDAY, March 8, 1861.

CHAMBERS, JABEZ, Grocer, Cheltenham, Gloucestershire. Feb. 8. *Sol.* Pruen, Cheltenham.

COXON, JOSEPH, Farmer, Castern, Ilam, Staffordshire, and of Morley, Derbyshire. March 1. *Sol.* Baker, Derbyshire.

DOUGLAS, WILLIAM, Dyer, Old Garratt Dye Works, Manchester. Feb. 19. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester.

GANE, ROBERT, Licensed Victualler, Wootton Bassett, Wiltshire. Feb. 25. *Sol.* Pratt, Wootton Bassett.

GILL, WILLIAM, Currier & Leather Cutter, Doncaster. March 2. *Sol.* Palmer, Doncaster.

GROVES, JOHN, CHARLES GROVES, and EPHRAIM CHETWYN, Glove Manufacturers, Sidbury, and King-street, Worcester (Groves & Chetwyn). Feb. 20. *Sol.* Rea, 34, Foregate-street, Worcester.

HARDING, EDWARD, Draper, Liverpool. Feb. 28. *Sols.* Avison & Radcliffe, 18, Cook-street, Liverpool.

LEWTHWAITE, ROBERT, Joiner & Builder, Bury, Lancashire. March 6. *Sols.* T. A. & J. Grundy & Co., 14, Union-street, Bury.

M'KAY, WILLIAM. Dyer & Finisher, Collyhurst, Lancashire. Feb. 13. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester.

NICHOLAS, DAVID, Grocer & Draper, Garndiffaith, Trevethin, Monmouthshire. Feb. 8. *Sol.* Lloyd, Pontypool.

ROBERTS, HENRY, Upholsterer, London-road, Saint Leonard's-on-Sea, Sussex. March 4. *Sols* J. & S. Langham, Hastings.

SMITH, JOHN, Grocer & Cheesemonger, Staines, Middlesex. Feb. 13. *Sols.* Nickols & Clark, 9, Cook's-court, Lincoln's-inn.

WEBSTER, PHILIP, Draper, King-street, Thetford, Norfolk. Feb. 16. *Sol.* Davidson, Bradbury, & Hardwick, Weavers'-hall, 22, Basinghall-street.

Bankrupts.

TUESDAY, March 5, 1861.

DAWES, CATHERINE, & CHARLES FIDDIAN, jun., Coffin Furniture & Malleable Nail Manufacturers, Birmingham. *Com.* Sanders: March 18, and April 8, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Webb, Birmingham. *Pet.* March 4.

EVANS, JOHN, Cattle Dealer, Lampeter, Cardiganshire. *Com.* Hill: March 19, and April 16, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Lloyd, Lampeter; or Abbot, Lucas, & Leonard, Bristol. *Pet.* Feb. 18.

FRENCH, SIDNEY JOSEPH GEORGE, Chemist & Druggist, 18, Norton Folgate, Middlesex. *Com.* Evans: March 19, at 1.30; and April 18, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Hare & Whitfield, 1, Mitre-court, Temple. *Pet.* Feb. 28.

GUNNELL, WILLIAM, & JOHN BROWNE, Biscuit Manufacturers, Landport, Hants (Gunnell, Browne, & Co.) *Com.* Goulburn: March 15, and April 17, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* Feb. 26.

HARIETTE, GEORGE, Skein Silk Dyer, 11, Weaver-street, Bethnal-green, Middlesex. *Com.* Holroyd: March 15, at 2; and April 16, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Porter, 57, Skinner-street, Snow-hill, London. *Pet.* March 2.

HECK, JAMES, Butcher & Fishmonger, Lincoln. *Com.* Ayrton: March 20, and April 17, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Dale, Lincoln. *Pet.* March 1.

JOHNSON, THOMAS GEORGE, jun., Wine & Spirit Merchant, Coventry. *Com.* Sanders: March 18, and April 8, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Minster & Son, Coventry; or Reece, Birmingham. *Pet.* March 4.

OWEN, ANNA MARIA, Dealer in China & India Goods, 95, New Bond-street, Middlesex. *Com.* Goulburn: March 15, at 12.30; and April 15, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* Jan. 23.

POWELL, CHARLES, Grocer & Cheesemonger, 2, Overy-street, Dartford, Kent. *Com.* Goulburn: March 15, at 2; and April 15, at 1.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Venn, 3, New-inn, Strand, London. *Pet.* March 2.

WALKER, GEORGE EDWARD, Victualler, Woodborough-road, Nottingham. *Com.* Sanders: March 21, and April 4, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Lees, Nottingham. *Pet.* March 1.

WEIL, ERNEST, Merchant, 6, Bank-chambers, Lothbury, London. *Com.* Holroyd: March 15, at 2.30; and April 16, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Lloyd, 1, Wood-street, Cheapside, London. *Pet.* Feb. 21.

FRIDAY, March 8, 1861.

BARNSLEY, ELUL, Gas Tube Manufacturer, Old Hill, Rowley Regis, Staffordshire. *Com.* Sanders: March 18, and April 15, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* E. & H. Wright, Birmingham. *Pet.* March 7.

BENNETT, WILLIAM, Linen Draper, Nether Stowey, Somersetshire. *Com.* Andrews: March 20, and April 17, at 1; Exeter. *Off. Ass.* Hirtzel. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London, or Fryer, St. Thomas, Exeter. *Pet.* Feb. 26.

BERRETT, WILLIAM, Licensed Victualler, Coal Exchange Tavern, St. Mary-at-Hill, London. *Com.* Evans: March 21, at 12.30; and April 18, at 2; Basinghall-street. *Off. Ass.* Bell. *Sols.* Harrison & Lewis, Old Jewry. *Pet.* March 7.

ELLISON, THOMAS, Baker & Flour Dealer, Liverpool. *Com.* Perry: March 18, and April 11, at 11; Liverpool. *Off. Ass.* Bird. *Sol.* Brahner, Clarence-buildings, 40, North John-street, Liverpool. *Pet.* March 6.

FARRAR, JOSEPH, Grocer & Tea Dealer, Bolton-street, and Fleet-street,

Bury. *Com.* Jemmett: March 19 & April 9, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Anderton, Bury. *Pet.* March 5.

Heale, William, jun., Nursery & Seedsman, Potterne-road, St. James, Bishops Cannings, Wilts. *Com.* Hill: March 19 & April 16, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Wittey, Devizes, or Abbot, Lucas. & Leonard, Albion-chambers, Bristol. *Pet.* March 5.

Lever, George, Watch Maker & Jeweller, 43, Warwick-street, Belgrave-road, Pimlico, Middlesex. *Com.* Fonblanque: March 19, at 11, & April 17, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Lawrance, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* March 6.

Lewthwaite, Edwin, Watch Maker & Jeweller, Halifax. *Com.* West: March 22 & April 26, at 11; Leeds. *Off. Ass.* Young. *Sols.* Bond & Barwick. Leeds. *Pet.* March 6.

Lock, Francis, Miller & Corn Dealer, West Bower Mills, Bridgwater, Somersetshire. *Com.* Andrews: March 20 & April 17, at 1; Exeter. *Off. Ass.* Hirtzel. *Sols.* Pain, Bridgwater, or Laidman, Exeter. *Pet.* Feb. 20.

Moore, George, Market Gardener, Perry Barr, Staffordshire. *Com.* Sanders: March 22 & April 12; Birmingham. *Off. Ass.* Whitmore. *Sol.* Marshall, Birmingham. *Pet.* March 1.

Noltey, Henry, Hotel-keeper, 7, Sparrow-corner, Minories, London, and 30, Fieldgate-street, Whitechapel. Middlesex. *Com.* Fane: March 21, and April 19, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Barron, 96, Guildford-street, Russell-square. *Pet.* March 5.

Richards, Samuel Wannerton, Hatter, Birmingham. *Com.* Sanders: March 22, and April 12, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Beal & Marigold, Birmingham. *Pet.* March 7.

Scherman, Adolphus, Merchant, 13, George-street, Minories, London, and late of Cape Town, Cape of Good Hope, and of Melbourne, Australia. *Com.* Holroyd: March 19, at 2; and April 23, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* March 7.

Tidmarsh, Henry Thomas, Draper & Clothier, Stratford-upon-Avon, Warwickshire. *Com.* Sanders: March 22, and April 12, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Warden, Stratford-upon-Avon: or James & Knight, Birmingham. *Pet.* March 4.

Wade, John, Ironmonger, Blackburn. *Com.* Jemmett: March 21, and April 11, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Hayes, Wolverhampton; or Cobbett & Wheeler, Brown-street, Manchester. *Pet.* Feb. 22.

BANKRUPTCY ANNULLED.

Tuesday, March 5, 1861.

Paddy, Richard, Draper, 4, Amelia-place, Brompton, Middlesex. Mar. 1.

Friday, March 8, 1861.

Harman, William, otherwise **William Frederick Harman**, Outfitter, Emmett-street, Poplar, Middlesex. March 5.

MEETINGS FOR PROOF OF DEBTS.

Tuesday, March 5, 1861.

Bowden, Mark, Flint Glass and Looking Glass Manufacturer & Glass Cutter, Bristol (Mark Bowden & Co.). March 28, at 11; Bristol.—**Culley, Samuel Utting**, Wine and General Merchant, 4, Coleman-street, London, 2, Priory-grove West, Brompton, Middlesex. March 15, at 1; Basinghall-street.—**Freston, William Antony**, Ironmaster & General Shopkeer, Maesteg, Glamorganshire, and Attorney-at-Law, Stroud, Gloucestershire. March 18, at 11; Bristol.—**Goodman, David**, Watchmaker, & Jeweller, Cardiff. March 19, at 11; Bristol.—**Jackson, George**, Decorative Designer & Ornamental Composition Manufacturer, 17, Brazenose-street, Manchester. March 27, at 12; Manchester.—**Kirkham, Theophilus**, East India Merchant, 28, Leadenhall-street, London. March 28, at 12.30; Basinghall-street.—**Moulton, George Canning**, Dealer in India Rubber and other Goods, 4, Gresham-street London, and late of 24, Brunswick-square, Bloomsbury. March 15, at 1.30; Basinghall-street.—**Powell, William**, Linen Draper, Newport, Monmouthshire. March 28, at 11; Bristol.—**Rees, Richard**, Cabinet Maker, Llanelly, Carmarthenshire. March 28, at 11; Bristol.—**Robertson, Charles**, Baker & Flour Dealer, Liverpool. March 27, at 11; Liverpool.—**Thomas, Edward**, Ironmaster, Walsall, Staffordshire. April 12, at 11; Birmingham.—**Thomas, Charles Jones**, Bonded Store Merchant, Newport, Monmouthshire. March 28, at 11; Bristol.

Friday, March 8, 1861.

Dwelley, Charles, Wheelwright, 6½, Clarendon-terrace, Bow-road, Middlesex. April 4, at 11.30; Basinghall-street.—**Noble, John**, Rope Maker, Carlisle. March 19, at 12; Newcastle-upon-Tyne.—**Pooley, John**, Contractor & Builder, Liverpool and Peterborough. April 5, at 11; Liverpool.—**Richardson, George**, & **George Tomlinson France**, Cloth Merchants, Huddersfield. April 16, at 11; Leeds.—**Taylor, James Thomas**, Grocer, 72, New Church-street, Marylebone, Middlesex. March 20, at 2.30; Basinghall-street.—**Wiseman, John**, Printer, Bookseller, & Stationer, Luton, Bedfordshire. March 19, at 1.30; Basinghall-street.

PURSUANT to an Order of the High Court of Chancery, made in the matter of the estate of Henry Bedford, late of No. 47, Albany-street, Regent's-park, in the county of Middlesex, and of No. 4, Gray's-inn-square, in the said county, gentleman, deceased, and between Thomas Powell Watkins, plaintiff, and Elizabeth Lane, defendant, the creditors of the said Henry Bedford, who died in or about the month of October, 1859, are by their solicitors, on or before the 14th day of March, 1861, to come in and prove their claims at the chambers of the Vice-Chancellor Sir John Stuart, at No. 12, Old-square, Lincoln's-inn, in the said county of Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Thursday, the 21st day of March, 1861, at one o'Clock in the afternoon, is appointed for hearing and adjudicating upon the said claims.

Dated this 21st day of February, 1861.

ALFRED HALL, Chief Clerk.

JOHN THOMAS TREHERNE, 17, Gresham-street, E.C.
Solicitor for the said Plaintiff.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** *Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 16, 1861.

CURRENT TOPICS.

Elsewhere in our columns will be found, at length, the return which the Accountant-General of the Court of Chancery has presented to Parliament, shewing the state of the Suitors' Fund and Suitors' Fee Fund when the balances were last struck. The Suitors' Fund account is made up to the 1st of October last, and the Suitors' Fee Fund account to the 25th of November. There appears to be no reason why these two accounts should include different periods. It would seem to be a more convenient course to balance both upon the same day. We have given all the items and figures in detail, in order that our readers may be fully in possession of much important information touching some of the subjects now about to be investigated by the Chancery Commission, which has just been appointed. Next week we shall give an abstract of these accounts, so as to present a more general view of them. In round numbers the fees levied on the suitors in the Court of Chancery during the year ending 25th November, 1860, are a little short of £100,000, while the entire disbursements are considerably over £200,000. The difference is more than made up by the income arising from the large funds of the court. The annual expenditure for compensations is about two-thirds of the amount required to pay all the acting officers of the court. The pensions to retired officers, amounting to over £12,000 a year, are not included in these compensations. These figures will suffice to shew that the new commissioners have some real work to do even though, as report says, they are confined by the terms of their commission to inquiries into the constitution of the Accountant-General's department, and the provisions for the custody and management of the funds of the court.

A return has been made to Parliament, on the motion of Mr. Malins, of the statistics of the Probate and Divorce Courts, of the latter of which we have elsewhere given an analysis. The *Times* has an article based upon this parliamentary paper in favour of the appointment of another judge who might attend to the business of the Probate Court alone. We cannot help thinking, however, that the return in question would not be a sufficient justification for so important and expensive a proceeding. Although the Court has been three years in existence, a considerable proportion of the causes now coming before it would unquestionably have been disposed of years before if there had been jurisdiction to try them. It is not fair then to draw any conclusion from the statistics which have been recently furnished to Parliament; and from the experience which has been gained since 1858 there is little reason to doubt that after a short time the probate and divorce business together will not be more than sufficient to give full employment to one judge.

The appellants in the case of All Souls' College, Oxford, have succeeded on the most important points; and in future the Foundation Fellowships of that College will probably be given to successful candidates in competitive examinations in the subjects of jurisprudence and modern history—some regard, of course, being had to moral fitness.

The office of Legal Adviser to the Metropolitan Board of Works has become vacant upon the appointment of Mr. Woolrych as a magistrate at the Thames Police Court. We believe the appointment rests with the Board, and that the salary is £1,000 a-year, together with certain fees of no inconsiderable amount.

LORD ST. LEONARDS' BILL ON CONSTRUCTIVE NOTICE.

We have so frequently adverted to Lord St. Leonards' repeated attempts to abolish the equitable doctrine of constructive notice, that we should not now allude to this topic at any length, if it were not that the Bill at present before Parliament, which embodies his lordship's views, is likely to become law without receiving any discussion in either House. The Bill proposes that no purchaser for value or mortgagee shall be bound by any implied or constructive notice, unless the Court shall be of opinion that his conduct "amounted to fraud, or to such wilful neglect as amounted to fraud." We do not pause here to offer any lengthened criticism upon the awkwardness and inaptness of the language which we have just quoted. It may be observed, however, that upon the principle that things which are equal to the same, are equal to one another, the term last introduced into the proposed enactment is unnecessary and illogical. No object appears to be gained by adding to the exception "unless the Court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud," the further exception "or to such wilful neglect as amounted to fraud." The latter exception appears to be even in terms included in the former, and to be, therefore, simply supererogatory and embarrassing. It is not to be supposed, however, that so learned and great a lawyer as Lord St. Leonards (assuming the addition in question to have been made by him), has used these words without meaning. The truth is, they are a forcible proof of the extreme embarrassment which must attend any attempt of the Legislature to meddle with this most comprehensive and complicated head of equity. The immense difficulty of the whole subject may be inferred from the fact that no English lawyer has ever yet had the courage to grapple with it in its entirety. Amongst the multitudinous treatises which issue from our legal press, not one has ever appeared upon the subject of constructive notice, although the applications of the doctrine are infinite, and the reported cases relating to it innumerable. The reason of this is probably not less on account of the conflict and obscurity which characterise judicial decisions involving the doctrine of notice, than because of its almost purely metaphysical character, and therefore the absence of such objective coherence as is desirable in any branch of law which is intended for the subject of a separate work. Another reason unquestionably is the almost insuperable difficulty arising out of the uncertain use of terms where so much depends upon accurate definition.

It would not be difficult, if our space permitted, to point out numerous examples where actual, express, direct, or immediate notice has been in terms confounded with constructive, implied, or imputed notice. There have been numerous attempts to define and explain in general terms the cases coming within these two general classes; but out of all these judicial definitions no text writer or judge has yet been able to construct any intelligible system. Efforts have been made from time to time, both in courts of common law and courts of equity, to define notice simply as knowledge; and as applied to a person, either that he knows or ought to know the fact or circumstances in question. But, however desirable for their simplicity these definitions might be, they have been found practically insufficient and unsuitable for the purposes of jurispru-

dence; and even though they were not so, the distinctions thus laid down are not coincident with the divisions of actual and constructive notice. The first step, therefore, which Lord St. Leonards has to take, is attended with the utmost embarrassment. The very terms which he is compelled to use are indefinite beyond all others in English law. Every lawyer can lay his hand upon conflicting judicial dicta as to the meaning of the term "constructive" or "implied" notice when it is used for the purpose of being distinguished from express or actual notice. Indeed, in a very large class of cases the term "constructive notice" stands for nothing more than actual (considered as including potential) knowledge. It is said that a person knowing so much ought to have known more; as where one knows the contents of a deed, and ought, therefore, to have acquainted himself with some facts therein revealed which affect his title. Although the term constructive-notice has been generally applied to this class of cases, some judges have with reason preferred to include them in the category of actual notice. There is another class of cases which have been commonly treated as coming under the head of constructive notice, but in reference to which similar observations may be made. Thus, a man buys an estate, some portion of which may be, (unknown to him) in the possession of a tenant; and the purchaser will be held to have constructive notice of whatever rights may be in the tenant, inasmuch as the purchaser must be held to have been aware of the possession of the tenant, although in fact it was otherwise. But although such a case as this might be fairly classed under the head of constructive notice, there appears to be no more reason why the possession of the tenant under such circumstances should not be deemed actual notice than in the case of a bill of exchange, where a formal notice of dishonour (than which nothing can be more express or direct) by some accident or miscarriage fails to reach the person for whom it is intended. The same kind of remark applies to the case of statutory notices by railway companies, carriers and others; they are in themselves unquestionably express and direct; but, nevertheless, they fail frequently to convey actual knowledge to the parties who are to be thereby affected; so that they may be said to have only constructive notice of what is so notified. Yet it has always been the custom to treat this large class of cases as governed by the doctrine of actual notice. Unnumbered decided cases would enable us to mention many other illustrations of the great difficulty of attempting any definition of implied or constructive notice, as distinguished from what is express or actual. We must content ourselves, however, with merely suggesting one or two others. Thus, a public Act of Parliament has been held to be notice; but is it express or constructive? Registration of deeds is not of itself notice, except it can be shown that the party to be affected, or his agent, has searched the register; but is such notice actual or constructive? The most important question to be settled will be that of agency for the purpose of notice. The old formula was that actual notice to an agent was constructive notice to the principal; and perhaps inasmuch as notice is said to operate by affecting the conscience, where fraud is imputed, the principal cannot be held to have, if in fact he has not, actual knowledge. Yet it has been expressly laid down (*Tunstall* v. *Trappes*, 3 Sim. 301,) that actual notice to the agent is actual notice to the principal. Supposing, however, the old enunciation of the doctrine to be correct, is it possible that according to Lord St. Leonards' Bill a principal shall ever be affected where the notice to his agent is only constructive, even admitting that the conduct of the agent "amounted to fraud?"

The original foundation of the entire doctrine of notice, whether actual or constructive, in courts of equity, and to some extent also at common law, was fraud or *mala fides*. In equity, fraud and notice have always been considered theoretically coincident. As notice was sometimes constructive, so also was fraud. Mere negligence to inquire, unless it were *crassa negligentia*, or so gross as to be evidence of fraud, has never involved in courts of equity the penalty of implied notice. The whole doctrine proceeds upon the notion that without it men might, by merely shutting their eyes, defraud their neighbours. There is no conclusive rule, either in equity or at law, that because a person has the means of knowledge he should therefore be taken to have acquired it. In equity, at least, it is always implied that there has been a fraudulent intention in not acquiring it; or that public policy requires that if such fraudulent intention does not, in fact, appear to exist, it is necessary, nevertheless, to assume its existence. If this be so, is there not some reason to anticipate that Lord St. Leonards' Bill, should it become law, must be altogether nugatory? If already notice is implied only when there is fraud, actual or constructive, is not the law the same now as it will be after the passing of the Act? No doubt, a substantive enactment may affect the rules of pleading, and certain doctrines, such as those relating to acquiescence, mistake, laches, waiver, puisne purchasers, solicitor and client, principal and agent, and many other collateral topics; but such is evidently not the intention of the noble framer of the Bill, nor can it be supposed that there would be any advantage from these indirect effects of an enactment which failed in its immediate object.

Almost every Chancellor for the last thirty years has expressed his dislike of any further extension of the doctrine of constructive notice; and yet from time to time it has been pushed very much beyond its true ground and original foundation. The question is whether the doctrine can be most effectually confined to its just limits by such a measure as that which is now before Parliament? We think that we have stated enough to raise a suspicion at least that Lord St. Leonards' Bill will be ineffectual, and to suggest that the subject is one more suited for judicial than legislative settlement.

THE LAWS OF MARRIAGE AND DIVORCE.

The case of *Thelwall* v. *Yelverton*, recently determined in the Irish Court of Common Pleas, and upon which we offered some general comments in last week's *Journal*, promises to be the pivot of a thorough reformation in the marriage code of the United Kingdom. The facts of that case it is unnecessary to detail. They are now sufficiently known, and furnish abundant material for a seven-act play. The action was brought to recover a sum of money for necessaries supplied to the wife of the defendant. The defence was a denial that the person to whom the necessaries were supplied was the wife of the defendant. Two marriages were relied on by the plaintiff, one of which was alleged to have occurred in Scotland; the other was admitted to have been performed in Ireland. The Scotch marriage consisted of the joint reading of the Church of England marriage service by the then happy pair, in Edinburgh, in the year 1857. The defendant, Major Yelverton, informed Miss Teresa Longworth that the law of Scotland required merely mutual assent and promises to constitute a marriage, and that the intervention of a priest and witnesses was unnecessary. Miss Longworth, however, it is said, refused to live with the defendant until the ceremony should be duly performed according to the rites of the Roman Catholic religion, which she professes. Accordingly, in August of the same year, they were married by the priest of Rostrevor. A verdict has been found for the plaintiff upon the issues raised as to both marriages, and two exceptions, founded upon the alleged infirmity of each marriage, have been taken to the charge of Lord Chief Justice Monaghan.

The first exception is based upon the fact disclosed in Mrs. Yelverton's evidence that she did not regard the Scotch marriage as "final, absolute, and unconditional," but contemplated a further ceremony according to the Roman Catholic ritual. This the exception assumes to be an incomplete marriage according to the law of Scotland. The second exception is based upon the Irish Act 26 Geo. 2, c. 33, which invalidates marriages celebrated by a Roman Catholic priest, unless both parties shall have professed the Roman Catholic religion for the preceding twelvemonth; while it subjects the priest who contravenes its provisions to the penalties of felony. The weight of moral as well as of legal evidence appears to incline towards proof of the Scotch marriage. Its actual occurrence, indeed, may admit of some doubt; but, as Major Yelverton recognised Mrs. Yelverton as his lawful wife upon several occasions subsequent to the period at which this marriage is sworn by Mrs. Yelverton to have occurred, the requirements of the Scotch law appear to have been sufficiently complied with.

With regard to the facility with which a marriage can be contracted in Scotland, we really must congratulate our unmarried metropolitan readers upon the several degrees of latitude which intervene between their domiciles and the land of cakes. How Malthus would have gnashed his teeth had he known how facile the Scotch law is to those who seek the matrimonial tie! The Irish law, however, appears to be strict enough in all conscience as to mixed marriages. These, if celebrated by a Roman Catholic priest, are altogether null, and the priest is made liable to the penalties of felony. The Lord Chancellor, in moving, on the 12th inst., for a select committee to consider the law respecting the parties entitled to sue in the Divorce Court in England and in the Court of Session in Scotland, stated that the Scotch judges consider that they have jurisdiction to dissolve the marriage of parties who happen to have sojourned for forty days within the realm of Scotland, as also over all native Scotchmen in whatever country they may have become domiciled. We venture again to congratulate our readers and ourselves that we are not all within the grasp of the Scotch judges, and hope that the telegraph wires do not place us in constructive contact with their ambitious tribunals. The Yelverton case appears to have suggested not only the appointment of this select committee, but also the Bill regarding mixed marriages in Ireland, just introduced by Lord Campbell, inasmuch as Mrs. Yelverton sued some time ago, in the Divorce Court in London, for a restitution of conjugal rights, but necessarily failed, as the jurisdiction of the Court is confined to England.

As the public law of Europe holds a marriage that is valid in the country in which it has been celebrated valid in all other countries, it is manifest that uniformity of the laws of marriage in the different states of Europe, should be sought by all governments to be realized as approximately as possible. Such a uniformity, however, cannot be enforced by any one or more states, and can only be the work of time and of a discreet diplomacy. But that the laws of marriage should be uniform and homogeneous in the United Kingdom, which is governed by a single Legislature, is as feasible as it is desirable, and is, we hope, upon the point of being accomplished. It may not be uninteresting very briefly to detail the causes and stages of the discrepancies in the marriage laws of the British Isles. Our readers are, of course, aware that the ecclesiastical law of England is based upon the canon, and not upon the common, law, if, indeed, there ever existed any common law on the subject. Our ecclesiastical law still conforms to the canon law in all cases to which special legislation has not been applied. Prior to the Reformation, the ecclesiastical law of the United Kingdom, and, indeed, of all Europe, was almost one and the same. Dispensations could then be obtained for the class of disabilities termed canonical in special cases, and the present codes of European States vary only to the extent in which they render such disabilities conclusive and permanent impediments to marriage. As to civil disabilities, European law, except in Turkey, presents hardly any variety. Prior to the Council of Trent, the intervention of a priest was not necessary to constitute a valid marriage according to the canon law. The general maxim of the canonists was "*Consensus non concubitus facit nuptias.*" Cohabitation was only necessary when the original contract consisted merely of a promise to marry *in futuro*. A valid contract to marry was thus completed either by a present agreement, or by a promise followed by cohabitation, *aut per verba de præsenti aut per verba de futuro cum copulâ*. The Scotch law strictly corresponds with these rules. The adherence of Scotland to these principles of the old canon law is perhaps to be attributed not only to the preponderance of the canon and civil laws over the common law throughout its entire jurisprudence, but also to the dislike for liturgy and ceremonial indigenous to a Presbyterian creed. The English law, prior to the Marriage Act of George II., did not differ much from the ante-Tridentine canon law. Prior to that Act, a promise to be performed *in futuro* could be enforced by a specific performance *in facie ecclesiæ*. This Act altered the law in this respect, and also rendered necessary the publication of banns or a licence, the consent of a parent or guardian in cases of minors, and the intervention of a celebrant in holy orders. The Marriage Act, 4th Geo. 4, c. 76, confirmed these provisions, but introduced no new principle. The 6 & 7 Will. 4, c. 85, has secularized the solemnity, and rendered the intervention of a clergyman no longer indispensable. His function may be performed by the registrar, a three weeks' notice to the latter being substituted for publication of banns. An English marriage may, therefore, now be celebrated according to the requirements prescribed by either of these statutes, or partly according to each, the superintendent registrar's certificate being equivalent to a publication of the banns, if a party prefer it to the latter, and desire a celebration in a church.

We entirely concur with the judicious observations of *The Times* of the 12th inst., upon the absurdity of the allegation that Irish and Scotch marriages concern only Irishmen and Scotchmen. Not only is this assertion unfounded and erroneous, but, owing to the rule of international law which we have mentioned, each State in Europe is interested in the marriage codes of all the rest in proportion to the degree of its intercourse with them. The rule, indeed, itself cannot be altered; for, if it were different, a man might have a wife in several States, and not be liable to punishment for bigamy in any. Every State should, therefore, endeavour to render the marriage laws of all other States conformable to the Divine law, and assimilated to its own. If, indeed, a foreign code admit of marriages which our law deems morally wrong, these will be invalid in England. But the boundaries of moral right and wrong should not be left to judicial discretion in cases involving the most important social interests. The case of *Brook & Brook*, now before the House of Lords, illustrates this view. Vice-Chancellor Stuart, assisted by Sir C. Cresswell, had decided in this case that marriage with a deceased wife's sister contracted in Denmark and valid there was invalid in this country, both parties being British subjects and domiciled in England. Yet, until the Act of Will. IV. such a marriage could not be invalidated in this country after the death of either of the parties. It was not, therefore, considered prior to that Act to have been a violation of essential morality. But in the Vice-Chancellor's decision such an assumption seems to be implied; as otherwise the general rule of public law would have prevailed with him. But though the conflict of foreign laws with our own cannot be averted at our discretion, we should take care that no such conflict could occur within the British

Isles. So far, however, is the law of the three kingdoms from being uniform in this the most important class of contracts, that a marriage may be contracted in Scotland by any promise to that effect, if plausible evidence can be offered to show that it was deliberate and unconditional, *vid. Dalrymple* v. *Dalrymple* (A.D. 1811). But a condition sometimes exists and admits of dispute. In the Yelverton case, the desire of Mrs. Yelverton for a Roman Catholic celebration of her marriage does not appear to be in any way connected with the Scotch marriage as a condition attached to it. It was a condition in itself null, not recognised by the law, *dehors* the Scotch agreement, and was intended to have preceded, not the Scotch marriage, but cohabitation. Now, cohabitation is not necessary to perfect a marriage by the law of Scotland when that marriage is contracted, as in the Yelverton case, *per verba de præsenti*. In *Beamish* v. *Beamish*, now before the House of Lords, the question is, whether a Protestant clergyman can by the law of Ireland celebrate his own marriage. In the case of the *Queen* v. *Solly*, an Englishman procured in Scotland a divorce from an English marriage, and having subsequently married again in England was convicted of bigamy. Yet a second marriage by Solly in Scotland would have been lawful there. In *Tollemache* v. *Tollemache* the wife, after a divorce, married again in Scotland. But the husband not being a domiciled Scotchman, had also to apply for a divorce in England. A wife may obtain in Scotland a divorce upon the ground of the husband's adultery, which alone, without the aggravating circumstances of cruelty or desertion, &c., gives ground in England only for a judicial separation. The Lord Chancellor proposes to give the respective courts of the three kingdoms jurisdiction in cases where the parties have resided in the country for a year or two previous to the application. It would appear more consonant to the general rules of law to make jurisdiction in divorce cases to depend upon the law of the country in which the marriage has been contracted, and not upon the domicile of the applicants. *Nihil est majus conveniens naturali equitati quam unum quodque ligamen eo dissolvi quo ligatum est.* As to the British Isles, common sense suggests that no question should be capable of arising, either as to the *lex loci contractus*, or the domicile of the parties, but that there should be one uniform code of matrimonial law for the three kingdoms. Religious ceremonies need not be interfered with by any measure, however comprehensive.

We are sorry to find that the Lord Chancellor is disposed to sanction partial legislation upon this subject. As his Bill is not yet printed, he may be induced to withdraw it; and instead thereof to move for a committee to inquire into the marriage laws of the United Kingdom, with a view to their assimilation. As the fruit of mature deliberation, we should have for the British Isles, if not for the whole empire, a uniform code of the laws relating to marriage and divorce.

LIABILITIES BY SPECIALTY AND BY SIMPLE CONTRACT. — ALLEGED ESSENTIAL DIFFERENCES BETWEEN THESE CLASSES OF CONTRACTS.—PROPOSED AMENDMENT.

III.

Pending the revision of the statutes, and the completion of those other sweeping reforms which are much more easily contemplated than realized, we think that the legal public ought not wholly to abandon the less attractive, but not less solid amendments which have been long mooted, and involve no radical experiment. The Real Property Acts of the late and present reigns exemplify the utility of even partial reforms which harmonize with the more fundamental principles of law. The abolition of the present law of specialties is a desideratum so great in the law of personal property, that it appears to us to deserve especial attention even at the present time, when the whole system of our law is promised a restoration to its ancient simplicity. We have shown, in our first paper on this subject,* that sealed documents have had a wholly technical as well as an ignoble origin. The offspring of ignorance was naturally subject to error, and productive of various inconveniences. These we endeavoured to detail and exemplify in our second paper.† We shall now briefly consider the alleged essential distinctions between sealed and parol contracts. But little attention is requisite to show that these distinctions are unreal, and are as technical as any of the best cherished fictions of our law.

The chief argument in favour of the existing distinction between contracts is founded on the assumption that the ceremony of sealing the document of contract tends to induce caution and deliberation in the contracting party. Let us consider for a moment the truth of the assertion, as also its value, even if the fact were proven. We consider that sealing is a mere formality as distinguished from a ceremony. It is as factitious and unconnected with the actual transaction as the stamp which is sometimes affixed for merely fiscal purposes. The covenantor scarcely ever, in fact, seals the deed himself. This is done by the attorney; and we need hardly say that a party does not include sealing in his directions for drafting the deed. How, then, can that induce forethought and deliberation which is not present to the mind? Let us contrast with this almost unperceived rite the very different effects produced upon the mind of a party by the act of signing his name. He knows the effect of doing this in the case of a bill of exchange. It is more forcible in its suggestions, and less vague in its direct import, than sealing and delivery, even though the latter were accompanied with a ceremonious formula which, however, is by no means indispensable. In short, it is the signature to a deed which constitutes the solemnity of the transaction, in point of fact, although it is inoperative in law. Any one upon consulting his own experience will find, that if he ever felt an unusual degree of responsibility upon executing a deed, that feeling arose from two causes—the value of the interest affected by the instrument, and the act of subscribing his name thereto; but he will not remember that the seal made any impression (if the pun be excusable) whatever upon him. Even if deeds had the alleged advantage just inquired into, over unsealed documents, nevertheless, we do not consider that their frequent use should be encouraged, as it is at present, by their monopoly of rights. A deed is too cumbrous and tedious a form of instrument for the common uses of commerce, which disdains wings even of gold and silver for its currency, and will disport readily only by the aid of paper, even though this should be sometimes of an unreal character. The sealing of contracts is manifestly not aerial enough for the purposes of daily commercial life. Let us consider the case of receipt stamps. They are doubtless an impediment to the brisk circulation so vital to trade, and are a tax of inconvenience, independently of their pecuniary amount, upon the inhabitants of remote and thinly peopled districts who may not find them always easily obtainable. Now, if all contracts were required by law to be stamped and sealed, we would consider such a restriction intolerable. We may thus readily infer that the use of specialties is wholly unsuited to the interests of trade.

It may possibly be alleged by those who love fanciful analogies, that a variety of forms of contract facilitates that division of rights *in fieri*, which is found necessary as to interests *in esse*, and that, as the right of property may amount either to full or partial dominion and ownership, so also different species of contracts may, according to circumstances, stipulate for different degrees of interest in the subject matter of the

* See *ante*, p. 215. † See *ante*, p. 275.

contract. But a fallacy lurks in this comparison. It is not the fact that any person desires to purchase an uncertain interest in property for as high a price as he would give for an indefeasible title to the same. This analogy, then, involves a confusion of ideas, and compares what is uncertain but not partial or limited in contracts with actual interests in property that are partial and limited, but not uncertain. A simple contract debt, in short, does not bear the same relation to a debt by specialty that a rent charge or a life estate does to the fee, but is rather to be compared with an estate of any kind that is defective in title. A bad law makes a good one in the same statute-book appear to the greater advantage from such companionship; but it would be a profitable sacrifice of the charms of variety if all laws were equally good. Specialty debts appear to be thus enhanced by the factitious unsoundness of simple contract debts, and not by any intrinsic merits of their own. The phrase "bills, bonds, and notes," indicates a general impression that these securities are to the non-professional mind of co-ordinate effect. But nine-tenths of the general public look upon bonds as eligible securities, not so much on account of their operation as deeds, and their consequent priority to simple contract debts in the administration of assets, as because they abridge process.

We have shown in our first paper* that the origin of sealed documents in the East was owing to a desire of keeping secret the contents of the instrument, and that the seal was afterwards transferred from the exterior of the document, its natural place, to the interior, and affixed there as a solemn mode of signature. We next recounted the history of deeds in our own law, and showed that the introduction of the ceremony into England was not owing to any of the advantages alleged to flow from it, but was the result of the ignorance of the Norman nobility, who resorted to the device of sealing, merely because they were not sufficiently literate to sign documents. The custom once introduced followed the usual tendencies of customs to perpetuate themselves, and so it survived the causes to which it owed its establishment. A custom, however, although technical in its origin, should not after the lapse of time be inconsiderately disregarded, just as if it had never existed. It may possibly have been found to subserve some useful purpose, or may have become so interwoven with the general fabric of the law, as not to admit of being easily separated from the adjacent materials. Nothing appears at first view more absurd than the obstinacy with which our law required that the tenant to the *præcipe* in a recovery should have the legal estate, in order to bar a legal remainder, yet the Act which abolished fines and recoveries, the 3 & 4 Will. 4, c. 74, copies in its Protectorship of the Settlement the very machinery which had been found so technical and intricate. Our second paper was intended to show that sealed documents had not been found to subserve, however indirectly, any useful purpose whatever. No prolific mould had grown over this stratum of feudal *débris*. On the contrary, it impedes all scientific harmony in the laws of contracts, and has been very effective in producing complications of its own. We endeavoured to show the extent to which the law of sealed documents has operated in this respect, and stated, with an effort towards minute and full detail, the various inconveniences which it has produced both in contracts *inter vivos*, as also in the administration of assets. Even if these inconveniences never existed, we might doubt the expediency of such technical intricacies, and ask *cui bono?* But we may take firmer ground, and consider their abolition not only desirable on account of their inherent inutility, but also necessary for the adjustment of the laws of contracts. The existing remedies for the inconveniences we have recounted are, first, the rule of construction which tends to limit the force of covenants to their express terms; thus, cutting down to the rank of simple contract debts many species of liabilities arising under deeds. As examples of these useful anomalies we instanced cases of *devastavit*. Breaches of trust are also, though less felicitously, exceptions to the general rule. The next compensation for the mischief is to be found in the rule of equity which pays specialty and simple contract debts *pari passu* so far as the assets are equitable, and, sometimes even in the case of legal assets, accomplishes the same purpose indirectly by means of the rule of marshalling. Parliament has not been unmindful of the necessity of obviating the effects of this common law grievance by express provisions in various statutes, as examples of which we cited the Bankrupt and Winding-up Acts (1848, 1849), as also the 14 & 15 Vict. c. 25, s. 1. But these are merely exceptions to the general priority of specialty over simple contract debts, and can be hardly said to have obviated to any appreciable extent the general confusion which the law of specialties has caused. The remedy which alone is complete and efficacious is the abolition of the distinctive prerogatives of contracts under seal. We have in these papers treated of sealed documents only in respect of their application to contracts which rest *in fieri*. As to actual conveyances and charges which create a specific lien upon the property to which they attach and enable the incumbrancer or mortgagee to follow the property after a sale to a purchaser, we do not seek to have the present law altered in respect to such transactions. These are infrequent as compared with general engagements, and effect a conveyance of an interest in the specific property, without coming into collision with the other debts of the mortgagor Indeed, a mortgage creates a general liability as well as a specific charge, but that liability is only a simple contract debt. Our observations apply only to contracts, properly so called, which rest *in fieri*, and create no specific charge upon any part of the real or personal property of the debtor. As to general contracts, we think we have conclusively shown that no distinction between them should exist. We do not, however, seek to render the customary evidence of contracts indistinct, or to dispense with any real safeguard against surprise or fraud. Such a protection, we think, is to be found not in sealing and delivery, but in the reduction of the terms of a contract to writing. Writing induces deliberation, caution, and accuracy, and is also valuable as insuring proper evidence of the transaction, *litera scripta manet*. We therefore consider that contracts should be classified as written or unwritten, and not as sealed or parol. These two classes of contracts do not admit of a confusion of boundaries. Every creditor will know whether he can produce written evidence of the debt due to him, or not. In the present state of the law, equal certainty cannot be obtained by a contract under seal. It may amount to a liability by specialty, or it may not. A contract under seal is, indeed, indispensable, except in cases of rent, to create a debt of such a class. But such a contract without a superadded covenant may be found inadequate to this end. Much technical sagacity is required to determine whether the debt is a specialty or not. Of this we have given abundant proofs. But whether written evidence of a contract be forthcoming or not, is a matter that cannot admit of much doubt. Written documents, then, afford all the advantages supposed to be inherent in sealed ones, and in addition are not liable to the ambiguities at present attaching to the latter. Our proposition, then, is twofold;—the abolition of specialty contracts, and the substitution in their stead of written ones, with, perhaps, the privileges and priority over simple contracts at present incident only to liabilities under seal. The latter point, however, is a question from the discussion of which we have purposely abstained.

We regret to find that Mr. Malins has not given notice this session to introduce again to Parliament his Bill for the abolition of the distinction between special and simple contract debts. His Infants Settlement Act has proved to be a very judicious and useful measure of law reform; and we hope that the credit which Mr. Malins has obtained by the passing of this

* *Ante*, p. 215.

Act will be an encouragement to him to carry out the important reform in the law of contracts which we have endeavoured to advocate in these papers.

The English Law of Domicil.

(By Oliver Stephen Round, Esq., of Lincoln's-inn, *Barrister-at-law.*)

VIII.

Reverter of the Domicil of Origin.

This branch of the law of domicil has always been, and is now to a certain extent, a *vexata questio*, the various cases that have occurred, generally speaking, rendering it unnecessary from some of their circumstances to decide that question, inasmuch as there has usually been discovered some ground for holding that there has not been an abandonment of an acquired domicil, but that a dying either *in itinere* or *in transitu* was sufficient to prevent such abandonment taking effect, although in other respects it was a perfect and absolute abandonment. One of the earlier notices taken of this subject is referred to in the case of *Munroe* v. *Douglas*, 5 Madd. 379, where the case of *Ommaney* v. *Bingham* is adverted to in a note, and it is cited to bring forward the *dictum* that "Birth might turn the scale if all the other circumstances were *in equilibrio;*" and *Lord Thurlow* in *Sir Charles Douglas's* case is said to have expressed an opinion that it must be presumed when a man abandons an acquired domicil, he intends to resume his native domicil; but the question then naturally arises, what is the value of such a presumption? and whether it comes within the rule now clearly laid down, that an intention is not sufficient, but that there must be an *acting* upon such intention to acquire a new domicil. Still, however, in the absence of any direct decision on the point, it is necessary to discover, if possible, how the law stands in respect to it.

I have before observed the assumed necessity of abandonment before a new acquirement would seem to take it for granted that a man cannot have two domicils; but the present opinion of the courts appears to be this: although such a thing is or might be imagined to be possible, yet, so slight a circumstance would turn the scale that the possibility is almost *ipso facto* converted into an impossibility; and the observations of the Master of the Rolls in the case of *Somerville* v. *Somerville*, 5 Ves. 750, go to this, and it is assumed by *Vice-Chancellor Wood* in the case of *Forbes* v. *Forbes*, 1 Kay 341; 2 Weekly Reporter, 253 (where the case is most excellently reported), that (so far as personal property is concerned) a man cannot have two domicils. If this be so, therefore, the question of *reverter* occurs, which might not be if it were probable that a domicil of origin and an acquired domicil could subsist at the same time. In the case of *Munroe* v. *Douglas* above referred to this question was very much argued, and the doctrine of reverter insisted on, and it may be useful to analyse those arguments. Dr. Munroe was born in Scotland, went to Calcutta, and was appointed assistant surgeon in a company's regiment. Nearly thirty years after he married in India, and having resided there for forty-four years he came to England with an intention, as was said, of spending the remainder of his days in Scotland, and evidence was adduced to prove such intention; but *Sir John Leach* thought it insufficient. Dr. Munroe then visited Scotland, and died during such visit, and as his wife (the plaintiff) would obtain a larger share of his property by proving a Scotch domicil than an English or Indian one, a Scotch domicil was the one sought to be established on the ground that the acquired domicil in India having been abandoned, the domicil of birth, that is the *forum originis*, revived.

In support of that proposition, numerous cases were referred to. The first was the case of *Bruce* v. *Bruce*, 7 Bro. Parl. Cases, 230; and 2 Bos. & Pull. 230, where Mr. Bruce died in the service of the East India Company; but it was argued that there was a distinction between this which imposed of necessity a local residence, and the case of an officer in the service of the Crown, which it was contended did not constitute a domicil; and a quotation was made from *Vattel* to the effect that "an intention to remain constituted a domicil, whereas, if a man go to a foreign country, *sine animo remanendi*, but merely to raise a fortune, it was not so, it being assumed that there was an intention to return to his original home," *Orde* v. *Orde*, 8 Dec. "Court of Sessions," p. 49. *Vattel*, liv. 1, c. 19, s. 218. With reference to the present state of the law, I apprehend that this is true only so far as a professedly temporary residence is concerned, and cannot apply to the case of carrying on a business or trade; indeed, the very contrary was decided in one of the latest, if not the latest case which has occurred upon this point. The case I refer to is that of *Lyall* v. *Paton*, 4 Weekly Reporter, 798, which, with the preceding case in the same volume, establishes the proposition that a residence and trading constitutes a domicil; for although the trading is not actually referred to, it appears to be assumed, and indeed it is difficult to suppose that a successful trade would not necessarily involve a length of residence sufficient to acquire a new domicil; although, as I have elsewhere observed length of time is a very indefinite expression, having regard to the decisions on the subject. Another case is *Colville* v. *Lauder*, *Dictionary of Decisions*, 33—34 vols. appendix 9, tit. succession. In that case, a carpenter being a Scotchman by birth, went to the Island of St. Vincent leaving his wife and family at Leith. Four years after, from ill-health, he went to New York, and was drowned in Canada the year after, having written to his father, remitting a sum of money, and stating his intention to return to his native country; and it was held that he must be considered at the time of his death as *in transitu* to Scotland, and therefore, supposing this as a recognised case, it would in effect support the doctrine of *reverter;* but this seems quite at variance with the present view taken by the courts, which certainly is, that an acquired domicil is not *lost* by mere abandonment, and that in such a case the acquired domicil would prevail, and, indeed, *Sir John Leach* in the case now under consideration so decided, and therefore, I presume, had the case *Colville* v. *Lauder* now come before the court, the decision would have been in favour of a domicil in the Island of St. Vincent, and it was admitted that such would have been the case had he died there; it being also admitted that he had acquired a domicil there. The case of *Macdonald* v. *Laing* was next cited from the same book ("Dict. of Dec."), p. 4627, which merely went to the point of being in the King's service, not constituting a domicil, a proposition which has never been questioned. The last case upon this point is that of *Cockrell* v. *Cockrell*, 4 W. R. 730; where Mr. Cockrell, the testator in the cause, had amassed a large fortune in India during many years residence, but had retained his half pay during the whole time, and that was decided on the *probabiles conjecturæ*, or probable presumptions, that the great gain by the business would have prevailed against the forfeiture of the half pay. In continuing the consideration of the case of *Munroe* v. *Douglas*, the next authority cited which I will refer to was the case of *Somerville* v. *Somerville*, where it was decided that the mere place of birth or death does not constitute a domicil; the domicil of origin which arises from birth or succession remains until clearly abandoned, and another taken. In that case, there were two acknowledged domicils, the family seat in Scotland, and a leasehold house in London, but under the circumstances the former was held to prevail.

In support of the doctrine of reverter the following passage was cited: *Origine propria neminem posse voluntate, sua eximi manifestum est.* Cod. Lib. 10, tit. 38, s. 4, p. 422, of the Elsevir edition, 5 Mad. 391; but this appears rather to apply to the case of a necessary domicil, or if not, to assume, that if there is such a thing as reverter, the operation is *ipso facto*, and without the intervention of the party himself. *Voet* also is quoted, and the passage there cited clearly refers to a necessary domicil of birth, and goes to show that the domicil of origin would prevail in a doubtful case, which is not at all, I think, in dispute, upon the principle, which is also conceded, that an acknowledged fact remains until the contrary is proved. Comm. ad Pand. lib. 5, tit. 1, pl. 92 at the end. *Pothier* is likewise referred to in support of the same proposition. See *Introduction Générale aux Coutumes*, chap. 1, s. 7, although in the conclusion of the quoted passage, it is distinctly laid down that a change of domicil must be *justifié*, that is, "proved" and carried out by some act before a new one can be acquired. So far, in fact, being a contradiction to the idea of the reverter of a domicil of origin *ipso facto*. The case of *La Virginie*, 5 Robinson's Admiralty Reports, 99, was put forward for the purpose of showing the opinion of *Lord Stowell* (then Sir William Scott) that a reverter was easier to prove than a constitution of a new domicil; but this merely decides that there being in one case a *certain* substratum to build upon, it would prevail in a doubtful case An unreported case was then cited of *Chiene* v. *Sykes* before *Sir William Grant*, and the reason why it was unreported is obvious, namely, that no decision (except an order being made) was come to upon it. The case was that of a native of Scotland having become a seaman, and although he married at Philadelphia, afterwards coming back to *Crail*, in Scotland, his native place; and jointly with his brother purchased property there and died. Evidence was gone into before the master on a reference to inquire as to his domicil, and the finding being that it was in Scotland, and, it must be supposed, no exceptions taken, a decree was made accordingly, and that case must have proceeded on the footing that there being no other domicil, the domicil of origin still *subsisted*, and therefore this was no decision of a *reverter*. In opposition to the argument that the *forum originis* revived, many cases and text books were produced, not bearing, however, much on the question of reverter, but chiefly that a domicil was not created by death at a place, or intention merely; and the following passage was read from *Denisart, Art, Domicile*, 513: "*Deux choses sont necessaires pour constituer le domicile; 1st. L'habitation reelle; 2nd, La volonté de la fixer au lieu que l'on habite;*" and, therefore, so far a negative argument; and in consonance with what I apprehend to be the present state of the law, it was likewise submitted that an acquired or an original domicil could not be entirely abandoned until another was actually acquired, and that it was not the law that the instant an acquired domicil was quitted the domicil of origin reverted.

(*To be continued.*)

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLOR'S COURT.

(Before Vice-Chancellor Sir R. T. Kindersley.)

March 14.—*In Re The Northumberland and Durham District Banking Company.*—An application was made in this case that a portion of the estates of the company might be sold by auction, notwithstanding that the same property had been sold by private contract.

It was stated in the course of the discussion that counsel had advised that this was a question which ought to have been brought personally before the judge in chambers, but that the chief clerk had refused to adjourn it for that purpose.

The Vice-Chancellor said that he had, over and over again, stated that any party had a right to require that any point should be discussed before the judge in chambers personally; that had always at least been his practice. In the present instance, without imputing anything to the gentlemen who had made the statement as to the refusal, they must have misapprehended what took place, for, having sent to the chief clerk, he had received a written answer saying that he expected it would have been brought before him (the Vice-Chancellor) personally, but no application had been made for that purpose. His Honour was quite sure that neither of his chief clerks had the least idea that they had a right to refuse to have a matter brought before him personally. The motion must stand over until the next seal, in order that the official liquidators might make a substantive motion.

HOME CIRCUIT.—Maidstone.

The commission was opened in this town on Monday. The cause list contained 26 causes, 12 of which were to be tried by special juries.

MIDLAND CIRCUIT.—Lincoln.

The commission was opened in this town on the 12th inst. The cause list contained 14 entries, 4 of which were marked for special juries.

NORTHERN CIRCUIT.—York.

Mr. Justice Hill and Mr. Justice Keating opened the commission in this town on the 7th inst. The cause list was heavy; the West Riding list containing an entry of 38 causes, of which 16 were marked for special juries. The East and North Riding list contained an entry of 22 causes, 4 being marked for special juries.

OXFORD CIRCUIT.—Blackburn.

Mr. Justice Blackburn opened the commission in this town on the 7th inst. The cause list contained only two causes.

Stafford.

The commission was opened in this town on the 11th inst. There were 24 causes entered, 9 being marked special.

SOUTH WALES CIRCUIT.—Swansea.

The commission was opened in this town on the 8th inst. The cause list contained an entry of 16 causes.

WESTERN CIRCUIT.—Dorchester.

Crown Court.—(Before Mr. Justice Willes.)

March 8.—When the grand jury were about to be discharged they handed in the following memorial:—

"We, the grand jury of the county of Dorset, desire to express to her Majesty's judges of assize our opinion that the present scale of allowances to prosecutors and witnesses is so low that in many cases a dislike to become prosecutors and a reluctance to give evidence is induced, and in many instances there is a failure of justice from parties refusing or neglecting to bring cases forward, under the apprehension of their doing so entailing the necessity of appearance at the assizes or sessions. The present scale is wholly inadequate to cover the ordinary and necessary expense of any witness at the assize town whose station is above that of the labouring class. The uniformity of allowance to all grades is improper and unfair, since it is manifest that the accommodation which that allowance would furnish is not such as clergymen and professional men and the higher class of tradesmen or their families are entitled to claim, while at the same time there are many instances among those classes where the position of the individuals renders any call for increased expenditure a serious obstacle to their coming forward to assist the public in the suppression of crime and the due punishment of offenders. The grand jury, therefore, hope that your lordships will represent this matter to the proper authorities, that their attention may be directed to such alteration as will remove the cause of complaint which now exists.

"John Floyer, Foreman of the Grand Jury."

The learned Judge said of course, on his part, it was not his duty to express any opinion upon the matter, of which they

were much more competent to form an opinion than he was; but he would forward their statement immediately to the proper authorities, who, no doubt, would receive it with the attention to which it was entitled.

EXETER.

The commission was opened in this town on the 9th inst. by Mr. Justice Willes. There were 15 causes entered for trial.

Mr. John Luskey Coad, of Liskeard, Cornwall, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Mr. James Radford, of Gateshead, has been appointed a perpetual commissioner for taking the acknowledgments of deeds to be executed by married women in and for the county of Durham.

Mr. Robert Lowe Grant Vassall, of Bristol, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, March 11.

THE LAW OF DIVORCE.

The LORD CHANCELLOR moved for a select committee to consider the law respecting the parties who are or ought to be entitled to sue in the Divorce Court in England, and in the Court of Session in Scotland for a dissolution of marriage. His lordship stated that great difficulties were experienced by Irish protestants and English residents in India in obtaining a divorce. It had been ruled that the Divorce Court in England had no jurisdiction in such cases, as those parties had not an English domicil. His lordship remarked upon the conflict of laws on the subject between England and Scotland, and the serious results produced thereby.

Lord CRANWORTH thought there would be much opposition to any interference with the marriage laws of Scotland. He saw no reason why all her Majesty's subjects should not be enabled to proceed in thepresent Divorce Court, and considered the jurisdiction of that Court ought to be extended.

The motion was agreed to.

Tuesday, March 12.

ADMIRALTY JURISDICTION BILL.

This Bill passed through committee with amendments.

TRADE MARKS BILL.

The amendments to this Bill, which were merely verbal, were reported and agreed to.

Thursday, March 14.

LODGEMENTS OF APPEALS.

The LORD CHANCELLOR said he had to propose the repeal of the standing order of the 13th of July, 1678, the object of which was to regulate the periods during the session at which appeals might be entered, and which had been found in practice productive of great inconvenience.

Lord CHELMSFORD expressed his approval of the proposed alteration; and,

After a few words from Lord CRANWORTH, the House directed that the standing order should be vacated.

ADMIRALTY COURTS JURISDICTION BILL.

The report of amendments in this Bill were agreed. to

TRADE MARKS BILL.

This Bill was read a third time and passed

HOUSE OF COMMONS.

Tuesday, March 12.

DISGAVELLING OF LANDS.

Mr. LYGON laid on the table a Bill for the voluntary disgavelling of lands, but reserved the explanation of its provisions till the second reading.

The Bill was read a first time.

PENDING MEASURES OF LEGISLATION.

ADMIRALTY COURT JURISDICTION BILL.

A Bill to extend the jurisdiction and improve the practice of the High Court of Admiralty has passed the second reading in the House of Lords, and gone into committee. It contains the following provisions:—

Sect. 1. Act to be called "The Admiralty Court Act, 1861."

Sect. 2 describes the meaning of the word "Ship."

Sect. 3. Act to commence on day of 1861.

Sect. 4 relates to claims for the building, equipping, or repairing of ships.

Sect. 5 relates to claims for necessaries.

Sect. 6 relates to claims for damage to cargo imported.

Sect. 7 relates to claims for damage by any ship or barge.

Sect. 8 relates to claims for salvage of life from on board British and foreign ships or boats; extending 17 & 18 Vict. c. 104, ss. 458—460.

Sect. 9 relates to claims for wages and for disbursements by master of a ship; amending 17 & 18 Vict. c. 104, s. 191.

Sect. 10 extends 3 & 4 Vict. c. 65, s. 3, in regard to mortgages.

Sect 11 extends 17 & 18 Vict. c. 104, ss. 62—65, and 514 to Court of Admiralty.

Sect. 12 extends the ninth part of the Merchant Shipping Act, 1854, to the Court of Admiralty.

Sect. 13. Court of Admiralty to be a court of record.

Sect. 14. Decrees and Orders of Court of Admiralty to have effect of judgments at common law. 1 & 2 Vict. c. 110, s. 18. Common Law Procedure Act, 1854, ss. 60—67.

Sect. 15 makes provision for claims as to goods taken in execution.

Sect. 16 extends the Common Law Procedure Act, 1854 ss. 50, 51 to Court of Admiralty.

Sect. 17 extends the Common Law Procedure Act 1854, s. 58, to Court of Admiralty.

Sect. 18 relates to admission of documents. Common Law Procedure Act, 1852, s. 117.

Sect. 19 extends the Common Law Procedure Act, 1852, s. 17, to Court of Admiralty.

Sect. 20. Service of subpœna out of England and Wales, to be effectual.

Sect. 21 gives power to issue new writs or other process.

Sect. 22. Judge and registrar to have same power as to arbitration as judges and masters at common law.

Sect. 23 extends 17 & 18 Vict. c. 104, s. 15, to registrar of Court of Admiralty.

Sect. 24. Registrar may exercise same power as surrogate and deputy or assistant registrar may exercise same power as registrar.

Sect. 25. False oath or affirmation to be perjury.

Sect. 26. Barrister, attorney, &c., may be appointed registrar and deputy or assistant registrar.

Sect. 27. Barrister, attorney, &c., may be appointed examiner of the court.

Sect. 28. Stamp duty not to be payable on second admission of proctor or solicitor.

Sect. 29. Proctor may act as agent of solicitors; 55 Geo. 3, c. 160.

Sect. 30. 2 Hen. 4, c. 11, repealed.

Sect. 31. Power of appeal given in interlocutory matters.

Sect, 32. No appeal to be allowed except upon a question of law. [This clause will be withdrawn in committee.]

Sect. 33. Jurisdiction of the Court may be by proceedings *in rem* or *in personam*.

TRADE MARKS.

A Bill to amend the law relating to the fraudulent marking of merchandise has passed the House of Lords with slight amendment. It contains the following provisions:—

Sect. 1. Interpretation: "person;" "trade mark;"

Sect. 2. Any person forging or imitating a trade mark, with intent to defraud, to be guilty of a misdemeanour.

Sect. 3. Any person selling, &c., with forged trade mark, with intent to defraud, to be guilty of a misdemeanour.

Sect. 4. Describing marks as trade marks to be sufficient for purposes of indictment.

Sect. 5. Marking goods, &c., with false indication of quantity, &c., with intent to defraud, to be a misdemeanour.

Sect. 6. Any person selling, &c., with false indication of quantity, &c., with intent to defraud, to be guilty of a misdemeanour.

Sect. 7. Forging, imitating, or falsely applying the names and marks of artists, with intent to defraud, to be a misdemeanour.

Sect. 8. Intent to defraud, &c., any particular person need not be alleged or proved.

Sect. 9. Punishment for misdemeanour under this Act to be by imprisonment for two years, with or without hard labour, or by fine.

Sect. 10. Conviction not to affect civil remedy, either at law or in equity.

Recent Decisions.

EQUITY.

EFFECT OF DEATH, BY OWN HAND, ON LIFE ASSURANCE.

Horn v. *The Anglo Australian Assurance Company.*

V. C. W., 9 W. R. 359.

In this case a life policy had been effected containing no provision as to the death of the assured by his own hand. The assured afterwards destroyed himself; and a coroner's jury found that he had done so while in a state of mental derangement. It was held by Vice Chancellor Wood that the representatives of the deceased were entitled to recover on the policy. There was another policy on the same life containing a proviso that in case the assured should die "by his own hands" within three years from the date of the assurance the policy should be void. The death occurred in the fourth year; and thus no question arose upon this proviso. If the death had happened a year earlier there seems no doubt that the policy would have become void. The phrase "die by his own hands" may perhaps be thought to be equivalent to "commit suicide," and yet it has probably been adopted in life policies in order to avoid the question which arose in the case of *Clift* v. *Schwabe*, 3 C. B. 437. In that case the proviso contained the words "commit suicide," and in an action on the policy, the judge directed the jury that in order to find for the defendants, they must be satisfied that the deceased died by his own voluntary act, being then able to distinguish between right and wrong, and to appreciate the nature and quality of the act that he was then doing, so as to be a responsible moral agent. The defendants excepted to this direction, and after argument before seven judges in the Exchequer Chamber, it was held by a majority of the Court to be erroneous, for that the terms of the condition included all acts of voluntary self-destruction, and, therefore, it was immaterial whether, at the time he killed himself, the deceased was a responsible moral agent. The opinion that the words "commit suicide" pointed to a legal crime was, however, maintained by two out of the seven judges as well as by the judge who tried the case. The effect of the words "die by his own hands" had been tested in the previous case of *Borradaile* v. *Hunter* (5 M. & G. 639), where it was held that these words included all acts of voluntary self-destruction and were not to be limited to acts of felonious suicide. This decision was arrived at against the authority of Chief Justice Tindal, who was of opinion that "a felonious killing of himself," and no other, was intended to be excepted from the policy.

It thus appears that some of the judges have been inclined to restrict both the words "commit suicide," and also those "die by his own hands," to the case of felonious suicide; but that this inclination has been overruled. We apprehend that as against the representatives of the assured a policy would become void upon felonious suicide without any proviso at all, and, therefore, unless such a clause were taken to provide for something beyond felonious suicide it would amount to nothing. In *The Amicable Society* v. *Bolland* (2 Dow. & Cl. 1), it was decided that in the absence of any proviso a policy on the life of the forger Fauntleroy, which had become vested in his assignees in bankruptcy, was by necessary inference vacated when the assured had died by the hand of justice. This decision of the House of Lords was rested on the ground that by the general policy of the law the assurance became void in consequence of the death of the assured being occasioned by his own criminal act. The Lord Chancellor said that an express assurance against the event of death by the hand of justice would undoubtedly be void, and an assurance which, by force of circumstances, amounted to the same thing, must be void also. It is to be observed that the reasoning in this case is equally or even more applicable to that of felonious suicide, where the death of the assured is occasioned by his own criminal act in a more direct sense than where the hangman interferes. Accordingly, in the case before us, Vice Chancellor Wood appears to admit that a policy would be avoided by the act of a *felo de se*. But in that case the deceased was found by a jury to have been of unsound mind, and, therefore, he had committed no legal offence. "There was no principle of public policy which prevented an assurance against insanity and its consequences." It should be observed that assurance offices may and often do bind themselves to pay the sum assured or part of it to an assignee for value, notwithstanding the suicide of the assured. The legality of such a contract was expressly declared by the Court of Queen's Bench in the case of *Moore* v. *Woolsey* (4 Ell. & Bl. 243). In answer to the argument that policies so framed tended to encourage suicide, Lord Campbell remarked that the practice of granting beneficial leases for lives might also be said to tend to encourage murder by the lessor.

REAL PROPERTY AND CONVEYANCING.

ALLEGED DIFFERENCE IN RULE AS TO TACKING MORTGAGES ON FORECLOSURE AND ON REDEMPTION.

Selby v. *Pomfret*, V. C. W., 9 W. R. 398.

Unless this case be successfully appealed from, it may be considered as finally setting at rest the question whether there is any difference in the mortgagee's right to tack according as he seeks to foreclose, or the mortgagor seeks to redeem, the mortgages. The question is usually stated in these terms, but it was put much better by Sir J. L. Knight Bruce in a case in bankruptcy to which we shall presently refer, where he said that the substance of the objection to the mortgagee's claim was that he could only tack when he was passive, and not when he was active. This statement of the supposed rule makes it wide enough to embrace such a case as that now before us, in which there was no foreclosure, but an exercise of the mortgagee's power of sale.

The rule is stated as an existing one in "Jarman's Conveyancing," 3rd ed. vol. 5, p. 438, the date of this volume being 1839; and it is added on the authority of *Ex parte Bignold, Re Newton*, 2 Dea. 66, that a mortgagee applying for a sale in bankruptcy of distinct estates mortgaged to him for distinct debts, cannot have the surplus of one estate applied to make good the deficiency of another. This was a decision of the Court of Review in Bankruptcy given in 1836. The same general rule is also stated in the text of "Powell on Mortgages;" but in a note to the 6th edition by Coventry, vol. 2, p. 1019, the existence of the supposed distinction is controverted. These seem to have been the principal authorities in support of the notion which has been partially entertained down to recent times. They were followed by Sir James Wigram in *Holmes* v. *Turner*, 7 Hare 367 n., a case which occurred in 1843; and by Sir George Turner in *Smeathman* v. *Bray*, 15 Jur. 1051, who treated the last cited case as a decisive authority upon the question. This was in 1851.

On the other hand, we find in 1843, a decision of Sir J. L. Knight Bruce in Bankruptcy in the case of *Ex parte Berridge, Re Loosemore*, 3 M. D. & De. G. 464. The petitioners in that case claimed to be equitable mortgagees of one freehold estate of the bankrupt, and legal mortgagees of another; and they asked for a sale of the premises comprised in both mortgages, and for the application of the proceeds as one fund in payment of both debts. It will be observed that the petitioners had a right to a conveyance of the legal estate in the property in which they had an equitable estate, and they had a right to bring an ejectment in respect of the property in which they already had the legal estate. They might, therefore, obtain possession of the latter estate; and if they did so, and if the equity of redemption was of any value, it would be the duty of the assignees to take proceedings to redeem that estate, that is, to place themselves in such a position that the petitioners would become entitled to be redeemed as to the whole amount of both their debts. Upon the one security the mortgagees must have taken some active step in equity, while on the other they need only proceed at law in order to shift the onus of the initiative in equity upon the assignees. It would seem from this example that the application of the supposed rule to a particular case would be liable to depend on accidental circumstances, so that different cases would be decided differently without any substantial reason for the difference. This observation is suggested by the judgment of Sir J. L. Knight Bruce, and no doubt it was present to his mind, but he did not found his decision on it. As the petitioners submitted, and the assignees were subject, to his jurisdiction, he took the course which seemed most for the benefit of the estate; and instead of leaving the petitioners to enforce their legal right on

the one mortgage, and thus to compel the assignees to redeem both mortgages, he ordered redemption of both in the first instance. This case, therefore, is not a conclusive authority against the existence of the alleged distinction, but it shows very strongly that a rule founded on it is incapable of general practical application.

We come now to the case of *Watts* v. *Symes*, 1 D. M. & G. 244; in which these conflicting views were brought in the year 1851 under the cognizance of superior authority. In that case there was an assignment by way of mortgage to the plaintiff of a reversionary interest in personalty The form of this assignment was upon trust for sale and for payment of the residue to the mortgagor after satisfying the mortgage money and interest. When this mortgage was made to the plaintiff he was already mortgagee of other property which the same mortgagor had conveyed to him to secure another debt. The plaintiff now sought to foreclose the mortgagor in default of payment of all that was due on both of his securities. Vice-Chancellor Shadwell had decided against this claim; but on appeal to the Lords Justices that view was adopted for which one of them (Sir J. L. Knight Bruce) had indicated a preference, as we have seen above. Lord Cranworth said, "I thought it quite settled that, whether the suit was for foreclosure or redemption, the mortgagee was equally entitled to say to the mortgagor, you must redeem entirely or not at all." He added, in answer to the respondent's argument, that the form of the security in that case made no difference, and of course the nature of the property on which the security was taken was equally immaterial.

In *Selby* v. *Pomfret*, the question arose between a mortgagee and the assignees of the mortgagor who had become bankrupt. The mortgagee held securities upon two different estates, one of which had been sold for more, and the other for less, than the amount secured upon it. The mortgagee, of course, claimed to tack, while the assignees insisted that each property ought only to bear the amount charged upon it, according to the above-stated decision of the Court of Review in Bankruptcy in *Ex parte Bignold*. The bill was by the assignees, but, as the mortgagee had exercised his power of sale, we apprehend, nevertheless, that it was a case in which he had been "active;" and, therefore, according to the supposed rule he ought not to have been allowed to tack. However, Vice-Chancellor Wood considered that, after the case of *Watts* v. *Symes*, all further doubt was at an end, and accordingly he dismissed the bill. It is to be observed that the mortgagee got the more productive of the two securities into his hands by assignment from the original mortgagee thereof after the bankruptcy of the mortgagor. The Vice-Chancellor disposed of the plaintiffs' argument founded upon this circumstance by saying that "any one might seize the plank."

COMMON LAW.

INSPECTION OF DOCUMENTS AND OF PROPERTY—14 & 15 Vict. c. 99, s. 6, 17 & 18 Vict. c. 125, ss. 50 & 58.

Daniel v. *Bond*, C. P., 9 W. R. 313; *Bennett* v. *Griffiths*, Q. B., 9 W. R. 332.

These are two cases upon the law of *inspection* as remodelled by recent Acts and decisions. The rules as to inspection at common law were singularly narrow and insufficient for the ease of litigant parties. The power of compelling the opposite party to allow the other to inspect and copy, if he pleased, any document relating to the matter in difference, was indeed exercised by the Courts in virtue of an authority which they alleged to be inherent to their constitution, but it was not exerted except under stringent limitations. These were chiefly, 1. That the order for inspection would only be made between the parties to the action. 2. That the applicant must be, in fact or interest, a party to the instrument; and, 3. That the adverse party must be under a trust, express or implied, to produce the document when necessary. These inconvenient restrictions were the occasion of the provision on this subject which was contained in the Evidence Amendment Act, 1851, from which, however, the courts deduced certain rules of a disabling character—namely, that inspection would only be ordered under it.—1. Where there was some legal proceeding pending. 2. Where the document related to such proceeding and was in the custody or control of the adverse party; and 3. Where the applicant would have been able before the Act of 1851 to have obtained relief in equity by a bill of discovery (see *Hunt* v. *Hewitt*, 7 Exch. 236). Since this provision, however, the law as to inspection, generally, has been again improved by the Legislature in the Common Law Procedure Act, 1854; which (in addition to a certain provision with regard to *discovery*, of which we will speak more presently), gave power to the courts of law to order an inspection of real or personal property, a jurisdiction which had previously belonged only to the Court of Chancery.

Such being the course of legislation on this subject, we may now observe with respect to the two cases above named, that the first was an application for a rule requiring the defendant to grant the plaintiff leave to "inspect" certain documents in the possession of the defendant, and which were required as evidence to support the plaintiff's case. It appears by the report that the application was made under the 50th section of the Common Law Procedure Act, 1854; but it is apprehended that it was rather under the Evidence Amendment Act, 1851 (14 & 15 Vict. c. 99). For by the 6th section of that Act the opposite party in an action may be compelled by rule or order to allow the other party to the proceedings to inspect documents in the custody or under the control of such opposite party relating to the action; while the object and effect of the 17 & 18 Vict. c. 125, s. 50, is rather to compel the opposite party to *discover* to the party making the application what documents, &c., relating to the matter in dispute may be in his possession and power. In the present case there seems to have been no necessity for any discovery, as the documents in question were known to the party making the application, and all he required was leave and opportunity to inspect them; and his application was granted by the Court, who took occasion to remark that they might and would compel all documents which have either a direct or proximate bearing upon a cause to be tried, to be produced when called for, if in the power of the adverse party.

The other case (*Bennett* v. *Griffiths*) affords a useful reading upon the other provision in the Common Law Procedure Act, 1854, bearing upon the subject of inspection—namely, the 58th—which authorises a rule or order for an inspection—either by the applicant (being one of the parties to an action), or by the jury or by his witnesses—of any *real or personal property*, the inspection of which may be material to the proper determination of the question in dispute; and the provision concludes with the following words, upon the proper scope of which the case substantially turned; "and it shall be lawful for the court or judge, if they or he think fit, to make such rule or orders upon such terms as to costs *and otherwise* as such court or judge may direct." Now it is obvious that there may often happen cases in which it will be of no avail to order an inspection unless there be engrafted therein an order or authority to do what may be required to render inspection possible; and the question in *Bennett* v. *Griffiths* (where this difficulty actually arose) was whether an order framed upon this principle, is within the meaning of sect. 58.

As to the circumstances of the particular case, they may be very briefly dismissed, as they do not affect the principle of construction. It is sufficient to say that the order in question was made in an action for taking coal from the plaintiff's mine (the plaintiff and defendant being the owners of adjacent mines) and that it was to the effect that the plaintiff might inspect the defendant's mine, and for that purpose *make a hole through a fence which obstructed the entrance to the mine.*

It was mentioned above that this jurisdiction, prior to the year 1854, belonged exclusively to the courts of equity. In those courts, wherever the inspection decreed has been obstructed, the removal of the obstruction has been ordered (see *The Earl of Lonsdale* v. *Curwen*, and *Walker* v. *Fletcher*, cited in the notes 3 Bligh. O.S., 153, 168). And in the present case, the Court of Queen's Bench formally assumed a jurisdiction equally large—not (as they observed) that the jurisdiction given to the courts of law must of necessity be regulated by that exercised in the courts of equity—but because the existence of the practice in those courts of removing obstructions to an inspection ordered, was a cogent argument in favour of such a jurisdiction being auxiliary also to that power of compelling an inspection, which the legislature had now given to the courts of law.

Correspondence.

LAW EXAMINATIONS.

I have received a circular requesting my opinion, as a member of the Incorporated Law Society, upon the report of the committee appointed to consider the examinations in general knowledge and intermediate examinations in legal knowledge

directed by the Attorneys' Act of last session. Upon the general scope of that report I have no remark to make, except to express my admiration of the spirit in which the committee have sought to carry out the intentions of the Legislature. There is, however, one additional subject of examination which I wish to submit to the Council as of the highest importance; so important, in truth, that I would respectfully urge that it be added to Part 1 of the preliminary examination, or even required from all candidates (including those who have obtained a degree or passed an examination other than that by the special examiners,) at the intermediate legal examination. I allude to the principles of social economy. In conducting the education of his son, a parent should not only seek to obtain for him such instruction as will lead to the general cultivation of his faculties, and draw out his intelligence into activity, but should also consider if there be any subject to which, having regard to his future career, special prominence should be given. If the occupation for which he is destined be that of an engineer, mathematics will probably form a chief part of his early studies. If he be intended for a merchant, foreign languages will be carefully attended to. If for a farmer, then chemistry will occupy the foremost place. So, with the view of directing early studies, the preliminary examinations of youths about to enter the service of the State are specially directed to those subjects which are most important in reference to the particular branch to which they may be seeking admission. I am glad to see that the committee have, to some extent at least, recognized these principles by the insertion of book-keeping in the list of indispensable subjects in the preliminary examination. But to require that the studies of a boy about to enter into articles should include book-keeping, while the principles of social economy are not mentioned, is as if in educating him to become a farmer one should have him carefully taught how to keep a complete set of farming books, but leave him wholly ignorant of the chemical constituents of the ground which he is learning to till. Universally important as is an early grounding in the principles which govern social life, and by which every person, of whatever occupation, should regulate his conduct, to the lawyer, who has to guide himself and his clients also, it is of far more vital consequence. In the present day, the solicitor has become, much more than formerly, the confidential friend and adviser of his clients in their more important transactions and negotiations. His occupation is not merely the prosecution or defence of their actions or suits, the sale of their estates, or the carrying into effect their agreements. He is consulted as to the arrangements to be made by will or otherwise in providing for their families. If a client contemplates entering into a partnership or making any other large or unusual investment of his capital, he will ask his lawyer's advice before concluding the negotiation; and a solicitor whose mind has been well trained in the principles which regulate social relations, will often be able, by his sound and practised judgment, to avert loss and disaster. Again, the boards of most public companies are regularly attended by their solicitors; and the advice of the latter is asked upon every important transaction, whether strictly within the province of a legal adviser or no. I need hardly say more upon the importance to lawyers of a sound education in the principles of social economy. But it is possible that objections may be urged to my proposal, such as that boyhood is too early in life for such a study to be profitably pursued, or that knowledge of the social relations is improving in this country, and may be left to itself for further development. I wish I could believe that social knowledge is really in a satisfactory state; but it is my conviction that no branch of education is less attended to and yet of more vital importance to all classes. The operation of industry, skill, and economy upon the well being of society; the principles which regulate the division of labour and the exchange of different classes of commodities; the relation to each other of rent, interest, and profits; and, above all, the laws which govern the use of credit, the disregard of which inevitably produces ruin and misery, are subjects upon which it is of the deepest importance that clear notions should be widely diffused. Yet there are very few of our profession who understand them. And in answer to the objection, that this study cannot be profitably pursued in youth, and, therefore, should not be added to a preliminary examination, I would urge that a general knowledge of the principles of social economy is peculiarly required as an introduction to the more minute study of the rules of law by which the action of those principles is protected, and their free play secured. It will be admitted, too, that the groundwork of any science is more easily inculcated in youth than in later life, and that truths which have been thoroughly acquired in boyhood rarely fail to produce a lasting and beneficial effect on the future career. Moreover, such instruction imparts a method and arrangement, nay, even an interest, to the subsequent legal studies which enable a far greater benefit to be derived from the latter. The importance of this branch of education, not for lawyers alone, but for all classes, is now beginning to be more widely felt. Professorships of this subject have been founded at King's College and University College. A class of economic science has been recently established in University College School, under the able conduct of Mr. W. A. Shields, in which the text-book adopted is a valuable little treatise called "Lessons on the Phenomena of Industrial Life," edited by the Dean of Hereford. The Committee of Privy Council on Education have also turned their attention to it, and, under their express authority, a course of lectures on the subject was last year delivered by Mr. W. Ellis, at the South Kensington Museum. An association of schoolmasters has been recently formed in London, called the Schoolmasters Social Science Association, of which the first and principal object, as stated in their rules, is

"The study of Social Science and how to teach it, as a means of raising the intellectual and professional status of teachers, of rendering them more efficient in the teaching and the training of the young, and, thereby, of more beneficially influencing society."

And this branch of education has even been extended to the schools for the poorer classes. It now forms part of the system of instruction in many of the schools under the superintendence of the National, the British and Foreign, and other school societies of the valuable class of schools known as the Birkbeck schools and others. The boys who receive that education are mostly under the age of fifteen; yet I do not think that any one who has observed the practical working of the schools will hesitate to bear witness to the great value of the instruction conveyed.

I appeal, then, to the Council of the Incorporated Law Society not to let pass the present opportunity of introducing this subject into the course of studies of the actual or intending law student. It is not necessary to impose any other than an elementary examination; in fact, it would be unadvisable to do so. But, if the attention of parents be directed to the importance of a knowledge of the principles of social economy, and if some preliminary study of that subject be required to precede or form part of a solicitor's education, a benefit of the highest value will have been conferred on the legal profession, and, through it, on the whole community.

10, St. Swithin's-lane, E.C. EDMD. K. BLYTH.

Permit me to make a few observations upon one of the recommendations of the committee of the Incorporated Law Society on examinations in general knowledge to be instituted under the Attorneys' Act, 1860, ss. 5. 8.

This recommendation is shortly: that every person who shall have passed the senior middle class examination established by the universities of Oxford and Cambridge may be articled for the term of four years.

I was London secretary for the Cambridge middle class examinations in 1858, and am a member of the London committee for regulating these examinations: I have thus acquired some knowledge of their nature, of the standards of excellence adopted in them, and of the class of boys who undergo them. This knowledge has convinced me that the adoption of the above recommendation of the committee will be unwise, and detrimental to the interests of our profession. In the hope that the council will pause before they carry this recommendation into effect, I submit the following remarks to their consideration.

1. It is the duty of the council and the examiners to take care that all gentlemen, to whom they give a certificate of fitness to enter our profession, be qualified to practise without injury to their clients.

2. The experience of our examiners and of nearly all practitioners who have taken young men into their offices immediately after their examination, teaches that the general period of five years is not a day too long for the acquisition of the necessary legal knowledge and practical experience. Indeed, many young men after their term of service go for a few months to a conveyancer's chambers before they feel themselves competent to undertake the active duties of their profession.

3. Therefore it is not right to shorten this term of service in the case of any gentlemen unless they possess some peculiar qualification either of age or knowledge which compensates for the loss of service.

4. Graduates of the universities are believed to possess such

a qualification (*a*) in their greater age; (*b*) in their superior education; (*c*) in the knowledge of men and manners which they have acquired at college; and (*d*) in some cases in superior station in life.

5. But even a well-read graduate must be articled in an office presenting unusual facilities for learning his profession, and must work with rare diligence all his time, to be at the end of it qualified to practise on his own account.

6. It is now proposed to take off one year's service in the case of young gentlemen who have passed the Oxford or Cambridge senior middle class examination. Therefore, before this is done it should be proved to demonstration that they who have passed these examinations are much better prepared for service under articles than the young gentlemen who have hitherto been articled for 5 years; and this superiority should arise from one or more of the four heads mentioned in paragraph 4.

7. Let us take them in order.

(*a*) Age. A boy must not be more than 18 at the time of passing the examination, he may be 15, 16, or 17: clearly, then, no superior qualification arises from this source.

(*b*) Superior education. I am able to state from my own knowledge of these examinations that the standard for a pass is by no means high, and I should be most sorry to pay the members of our profession generally (and still less the members of the council) so bad a compliment as to admit for an instant that nearly all of them could not have passed these examinations with ease before they were articled.

The candidates are allowed to select their own subjects (with but slight exceptions), so as to pass upon a knowledge of chemistry and drawing.

(*c*) No argument is required to shew that passing these examinations neither gives nor proves any acquaintance with the world. In fact, the point next considered will shew that these boys have this qualification in a less degree than they who now form the staple of our articled clerks.

(*d*) These are emphatically "middle-class examinations." The candidates come with few exceptions from middle-class schools. The great public schools will not leave their usual modes of education for the sake of their few boys who might wish to undergo these examinations; consequently, while I must speak in the highest terms of the respectability and good behaviour of the candidates, I am bound to say that few are sons of gentlemen, and very few indeed, if any, are of the higher classes. Thus, so far from the 4th ground of superiority existing in this case, the effect of the change will be to tempt into the profession young men of a lower class than heretofore by giving them a great privilege on easy terms.

At present our profession deservedly ranks amongst the "liberal professions," and its members are for the most part "gentlemen" by birth, breeding, and education, as well as by law. But every admission of an articled clerk of a lower grade will tend to keep out one of the higher classes, and I regret to see a tendency in recent legislation to this lamentable result.

Lastly. I must observe that these examinations have not yet been so long established as to form with propriety the basis for a change in our regulations. This is only their fourth year, and many thoughtful men in each university (including some of their original promoters) and many schoolmasters of note throughout the country entertain grave doubts as to the effects of these examinations and the wisdom of continuing them. At any rate, many changes must be made in their nature, and it will be years before their standards of knowledge are fixed. When they are it will be time enough (if ever) to give privileges to the boys who attain unto them.

For these reasons, as I desire neither to lower my profession nor to cast a slur upon its existing members by giving out to the world that we consider that we shall raise the class from which they spring by tempting into it boys whose sole merit is that they have passed the middle class examinations, I respectfully but earnestly implore the council to disregard this recommendation of their committee; and I hope that the judges will make no order for the adoption of so objectionable a proposal.

Sydney Gedge, M.A.

4, Storey's-gate, Great George-street,
Westminster, S.W., 12th March.

POLICE CONSTABLES AS ADVOCATES.

The magistrates at a petty session lately held at Holmfirth, allowed a superintendent of police to act as an advocate and examine and cross-examine witnesses on the hearing of an information laid by a subordinate constable against some parties for an assault committed upon him whilst in the execution of his duty, although a barrister who attended for the defendants protested against it. Do you consider such practice ought to be submitted to? Is it not a violation of the law, and calculated to lower the position of the legal profession? The clerk to the magistrates is a solicitor, and he acquiesced in the proceeding.

March 9th. Scrutator.

[We believe that even in the metropolitan police courts, policemen are much employed in discharging the proper functions of lawyers. The Metropolitan Board of Works employs superintendents of police, not only to "get up" cases against owners and occupiers of unsafe buildings, and to serve the statutory notices, &c., but even to conduct the cases before the magistrate. We have heard some curious anecdotes touching the opening speeches of these would-be advocates. The subject to which "Scrutator" calls attention is one of considerable importance, and ought not to be overlooked. Nothing can be more absurd, or more damaging to the administration of justice, than thus to assign to uneducated policemen duties which properly belong to professional men. Ed. *S.J.*]

NEW LAW COURTS AND OFFICES.

Sir,—On reading your kindly criticism, I was fain to lay down my arms at once and to surrender at discretion, fairly overcome by the generosity of my friendly foe; for in spite of some uncomfortable thoughts upon the fate of good Mrs. Bond's ducks, and an uneasy memory touching the victims of that most joyous and affectionate of executioners, master Petit André, I had an honest faith in your good dispositions towards me which I still retain and am duly thankful for.

But permit me to disclaim the merit you impute to me. My pamphlet on the Ecclesiastical Courts was nothing more than the putting in form of the reasonings of a committee, of which, though composed of many able men, Mr. Field, that most original, energetic, and rapid of the law reforming intellects of the present day, was the life and soul. The immediate result, however, was no more than to throw out an obnoxious Bill of Sir John Nicholl's. But in the present cause, the Courts Removal, I claim to have struck the first blow in a pamphlet in 1840, thereby originating Serjeant Wilde's committee of that year, the evidence before which decided the principle of the removal finally and beyond dispute. It was before that committee that the Law Society's council and Sir C. Barry declared Lincoln's-inn-fields to be the best site. The former alone withdrew from that opinion, and it is for my greater consistency that you, Mr. Editor, deem me to be a monomaniac.

Now, it is the character of a mind so afflicted to leave out of sight all large considerations and to fix its enamoured view on one point of a matter only, nay upon a fractional part of a point; and by this test I am willing to inquire whether you or I deserve that appellation.

I will enumerate, then, the weighty considerations which you treat with silence, or deem "hardly worthy of mention:"—

1. You are silent upon the comparison, in regard to public health, between the diffusion under the Fields' plan of the great and only requisites, fresh air, pure water, and free sewerage over an area of fifteen acres; and the less efficient amelioration under the Strand scheme of only six acres.

2. Upon the gardens to be opened to the public, where Lord Shaftesbury thinks it no trivial matter that children "may handle their hoops," whilst the mothers enjoy the summer shade of the trees, pleasures now denied to them, and otherwise not to be obtained, unless by indemnifying the freeholders for the large cost of originally forming and since maintaining the present garden.

3. Upon the unspeakable value of the new streets, both as air-channels and traffic-thoroughfares.

4. You deem "hardly worth mentioning" the "noble position" for the new building; and the great opportunity that now occurs of adding to the architectural character of the metropolis.

5. The same of the "facility of access;" though the Fields' plan affords this to carriages and foot passengers in the utmost perfection; and the Strand site precludes it to both.

6. The same, I presume, (under your words "and the like") of all other the greater comforts and advantages attaching to courts in a broad and open space, and not girdled and hemmed in by public thoroughfares.

7. Though appreciating, as a great merit, the quietude of the Fields, you doubt the power to preserve it, thinking that improved

accesses may invite the general traffic. But when the new parallel streets outside, west and south, made partly for the very diversion of this traffic afford an equally convenient course, there will be no need that any through traffic should invade the quiet of the courts; two or more gates may legitimately defend the exposed points, and a fine, if needful, may deter the wanton breach of a public regulation. Here, then, the quietude you feel important may be attained; in the Strand, not; for your explanation of the intended plan exhibits all the outside rooms on *three* fronts as assailed by noise. Many of these will be audience chambers; and though I deny not but that the officers and quasi-judges occupying them may in time, like the miller, become patient of the disturbance, they will suffer unconsciously from an attrition and fretting of their nerves, very mischievous in the long run to health of mind and body; whilst the attending public, not similarly enured, must undergo the annoyance to the end of time in full force.

8. You seem to me sensible, Mr. Editor, of the inadequacy of the Strand site to the extension of the principle of concentration in after times to future legal structures; and not insensible, I would infer, to the singular capability of Lincoln's-inn-fields to become the grand centre of the public edifices of the law. To escape from this fatal defect in the Strand site, an ingenuity is exerted which cannot be too much admired. I have, however, read something like it in the "Marine Zoology" of Mr. Gosse, or in Professor Kingsley's "Glaucus." In consequence of the extreme awkwardness of the ground, the mother-court-building is in the progression of time to be surrounded by a progeny of affiliated offsets, "protruded," as you express it, from her own body, and united in a "congeries" by umbilical cords, thus overgrowing the neighbourhood of Temple-bar; whilst beneath these monster Siamese cords, which it seems may be multiplied at discretion, carts and carriages will be seen to move at ease. The whole will present the appearance of some great zoophyte, and will highly gratify the then representatives of Mr. Ruskin's views by bringing natural history into the service of architecture. Doubtless the House of Commons will augur well of a site which so taxes the wit of its defenders to make it answer its desired end.

The consideration of an undue economy, I disclaim. I have ever said the best site must be had at whatever cost. Parsimony ill becomes a great nation. Still, I have a satisfaction in hearing that the Rolls' estate will exempt the Fields' plan from the purchase of a site for the Wills Depository, making it the cheaper scheme altogether by a quarter of a million, or, in your mode of computation, by £8,000 a year. I do not enter into the device of a gas-lit tunnel; I apprehend a close van could conveniently carry the records to their final resting place, and the distance from the Fields' Courts to the Rolls is a mere step.

I have tried to show that the considerations which you disregard or put aside are such as to common apprehensions deserve a first place; and, regarded from the point of view you claim as your own, they include every element of adaptation to the specific end, except indeed a fractional consideration of small amount.

For on what do you rest the merit of your site? On the *general* convenience of professional men? Not so, but on a minute fraction of this only. Lincoln's-inn and Gray's-inn and their neighbourhoods lie as well or better for Lincoln's-inn-fields, and there are few solicitors in the Temple. Hence, you rightly and necessarily rest your whole case on the convenience of the Temple barrister alone. You insist that he who hitherto has been subject to the distance of Westminster "must reach the courts without check or stoppage *in a minute or two*, robed, from the Temple." The viaduct *we* propose from the Temple to Lincoln's-inn would enable him to do this in just double the number of minutes which the Strand courts would take; if two, then four, or more probably three and six; and thus the difference is surely trivial, and will be inappreciable. The barrister need not be all day on the move to and fro between chambers and the courts, and the extra minutes will be of no account. If circumstances were equal, it were better to save him even these; but for this insignificant fraction of a fractional convenience to call upon us to submit to noisy, inaccessible, and ill-circumstanced courts (qualities made palpable by the forced ingenuity they evoke) when courts perfect in every attribute are within our power, and to a sacrifice of all architectural and metropolitan considerations, is to my mind a miscalculation, an extravagance, and a monomania.

Should the article, to which I thus ask your leave to reply, have had its origin with the Law Society, as by its exact information it might seem to have done, to the society let this answer be addressed; and whilst I again thank the writer for his kindly tone towards myself, I trust I have here said nothing to forfeit his friendly dispositions.—Your obedient servant,

Wolverley, 11th March. HARVEY GEM.

PROMOTION AT THE BAR.

Sir,—I write to inform you that on Saturday a petition to the Crown praying inquiry into the effect of the present system of promotion at the Bar, was left at the Home-Office for presentation.

The petition alleges in effect that the exercise of the prerogative in appointing Queen's Counsel is of no real service to the Crown, is injurious to the suitor, and operates with much injustice to other barristers.

It is presented on public grounds only.

I am, Sir,
Your obedient servant,
EDWARD WEBSTER.

9, Old-square, Lincoln's Inn, 14th March, 1861.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

At a recent meeting of this society, Mr. J. PITT TAYLOR read the following paper "On the Expediency of passing an Act to permit Defendants in Criminal Courts, and their Wives or Husbands, to testify on Oath."

The rules of law which preclude a man, when charged with the commission of a crime, from giving his own testimony on oath, or from calling his wife as a witness, have, in consequence of two remarkable trials, been recently much canvassed by the public. Both questions are difficult and interesting; and as they obviously have an important bearing on the due administration of justice, a discussion on their merits by the members of the Law Amendment Society cannot fail to be productive of great advantage. With the view of raising this discussion, and, if possible, of leading the society to what I conceive to be a right conclusion, I have prepared a summary of the arguments which, after much thought, have convinced me that the existing law on both points is unsound in principle and injurious in practice.

And first, as to the rule which rejects the sworn testimony of defendants in criminal courts. In discussing this rule, as in discussing every subject connected with the laws of evidence, we must keep steadfastly in mind the two following legal axioms:—1st, in all judicial investigations the object to be attained is the *discovery of truth*, and no species of evidence ought to be excluded which can materially aid in that discovery; 2nd, the rules of evidence ought, so far as it is practicable, to be the same in civil and in criminal proceedings.

Now, since the law under discussion is in direct conflict with both these axioms, the burden of proof is shifted on its supporters, who can hardly rest satisfied with the presumption, which usually favours existing institutions, but who must be prepared to show that the continuance of what is confessedly an exceptional state of the law is founded on sound reasons. Then, what are the reasons which justify this law? As far as I can ascertain, they seem to range under one or other of the following heads. It is contended, first, that the admission of the testimony of defendants in criminal trials would mislead juries; next, that it would increase the crime of perjury; and, lastly, that it would expose the accused to unfair and oppressive examination. To refute the first reason is no difficult matter. It has been urged without success on every occasion when the strict rule of the common law, rejecting the testimony of interested witnesses, has been relaxed; and it is based on an assumption of incapacity on the part of juries, which is proved by daily experience to be wholly unfounded. In investigating questions of fact, men are far more likely to err by being forced to grope their way to a conclusion in the twilight or in the dark, than by having their mental vision dazzled by excess of light. Moreover, as the motive of a prisoner to deceive is at least as obvious as it is strong, any statement he might make would be received with suspicion, and be weighed with more than ordinary care.

The objection that perjury would become more prevalent, if parties accused of crimes were allowed to be sworn, is scarcely less futile than the one just answered. This was the grand argument put forward in 1851, when the Bill for admitting the testimony of parties to civil suits was before Parliament. It

inherent weakness was then exposed by the promoters of that measure, and the Legislature, putting a proper estimate on its value, set it at nought. The Act was passed, and after having been nine years in operation, it is now admitted by universal consent to have worked a most salutary change. Some plaintiffs and defendants have of course committed perjury, and possibly that crime may have increased in a slight degree; but assuming such to be the case, the evil arising from the increase cannot be regarded as very alarming, since only thirty-five persons were convicted of perjury last year, and it really sinks into insignificance when contrasted with the benefits that have resulted to the cause of truth and justice, from enabling juries to hear the statements of those who were best acquainted with the facts in dispute. I do not contend that a defendant in a civil action is as strongly tempted as a person charged with crime to commit perjury; for as a man will make greater efforts to preserve his life, his liberty, or even his character, than his property, I admit that a law which would allow criminals to give evidence on oath in their own favour, would have a greater tendency than the Act of 1851 had to increase the crime of perjury. Still, I cannot discover on what sound principle of jurisprudence an innocent man can be deprived of the natural right of asserting his innocence in the most solemn manner, merely because a guilty man may be induced to tell a falsehood on oath. To reject the use of a valuable instrument simply in consequence of its possible abuse is scarcely in accordance with real philosophy. Moreover, in considering this question, we must remember that municipal law has to deal with perjury, not as a sin, but as a crime; not as an offence against the Majesty of the Allwise, but as an offence against society. We punish perjury, not as the avengers of the Deity, but because we know that it may afford the means of defeating justice, of wrongly benefiting some individuals and injuring others. These are the practical evils against which we have to guard; and if perjury were *never* successful, the perjurer, so far as human laws and interests are concerned, might remain unpunished, and be left to rank with the fool who said in his heart There was no God. Then, if this be so, we have no cause for alarm, even though a few criminals should be tempted to perjure themselves. False statements coming from so questionable a source would have little chance, as I have before shown, of imposing on the intelligence of juries, and, when sifted by means of cross-examination, they would almost inevitably be detected. In fact, the only effect of examining a guilty man would, in ninety-nine cases out of every hundred, be to render his guilt more transparently clear, and thus to relieve the jury from all anxiety respecting the justice of their verdict.

I pass on now to the third objection which is urged against the proposed change in the law, namely, that which rests on the assumption that defendants would be exposed to unfair and oppressive examination. It is said that if we once allow a criminal to give evidence in his own behalf, we shall put him to moral torture, we shall drive him to tell lies in his own defence, we shall exasperate the severity of our penal law, we shall sanction a species of compulsory self-crimination, and we shall adopt, what has been denounced as "the atrocious cruelty of the French system." (See per Lord Campbell and Lord Chelmsford, Hans. Parl. Deb., 3rd ser. vol. clii. pp. 762—765.) I confess that, to my mind, these conclusions do not seem to be very logically drawn. If it were proposed to extend to our criminal courts in its entirety the Act of 1851, and to render the accused not only *competent* to testify on his own behalf, but *compellable* to give evidence against himself, some of the assertions just cited would be entitled to consideration. But this is not the system which is sought to be adopted, nor anything like the system. The change which it is proposed to introduce is, that—instead of a defendant asserting his innocence as at present, and making his statement, calling God to witness that it is true, and hoping that he may die on the spot if it is false, in which case no questions are asked on cross-examination, and the statement, if submitted to the jury at all, is left to them with an observation from the judge, that it is entitled to no weight, as coming from a party who has been neither cross-examined nor sworn—he shall be allowed, if he thinks fit, to testify on oath, but on condition that he shall be subjected, like an ordinary witness, to cross-examination. The very essence of the plan is, that the examination of the defendant shall be *permissive* and not *compulsory;* and it is difficult to imagine how, in the teeth of the legal maxim, "*volenti non fit injuria*," such an examination can be described as an engine of oppression, or be held to resemble in any one essential particular the browbeating examinations to which prisoners must submit in the French Courts. In France, the accused is forced to answer every question put to him. In the plan proposed, he is not forced to answer one. In France, his examination throughout is conducted as a cross-examination, its object being to establish his guilt, rather than his innocence; and if Lord Chelmsford is an authority on these matters, "the judge endeavours, with all the practised dexterity at his command, to extort an acknowledgment of guilt." (Hans. Parl. Deb., 3rd ser. vol. clii. p. 764.) Here, it is intended that the accused should be at liberty to tell his own story without interruption, and in such a way as may best prove his innocence, and that the cross-examination shall be simply employed as a test of the truth of his statement. Again, in France, the prisoner is not sworn, and consequently whatever statements he may make in his own favour, they have not the weight which is attached to testimony on oath. Here, the proposal is, that the defendant, if examined at all, must first be sworn. In the face of these marked discrepancies, what possible analogy can fairly be drawn between the two systems?

Although, for the reasons stated above, the proposed change in the law would not expose prisoners to an oppressive examination, in one respect it would place them collectively in a worse position than they now occupy. At present, if "not guilty" be pleaded, the prosecutor has to make out his case independent of the accused, who cannot be examined either for or against himself. But once allow the defendant to testify on oath, and he will occasionally find himself in this dilemma:—Either he must attempt to deceive the jury by falsehood, in which case he will run an imminent risk of detection and additional punishment, or he must decline to be sworn, when his silence will very possibly be interpreted as presumptive evidence of his guilt. Lord Campbell asserts that this system would cause grievous hardship, because "prisoners would frequently be convicted on their own evidence;" (Hans. Parl. Deb., 3rd ser. vol. clii. p. 763.) and Lord Chelmsford is of the same opinion, because "it has ever been the boast of our law to exhibit towards the accused) the greatest forbearance, and to give them the benefit of every reasonable doubt." (Hans. Parl. Deb., 3rd ser. vol. clii. p. 765.) I have cited these assertions, not because I consider them arguments which have deserved refutation, but because, being advanced by great men, they may have an importance attached to them very different from what they intrinsically merit. Surely Lord Campbell forgot, when he used the reasoning just referred to, that the existing law permits prisoners to plead guilty, or in other words, "to be convicted on their own evidence," even without any corroborative proof. How then, on this ground, can he object to a law which merely gives the prisoner the option of being examined, and empowers the jury to convict him on his own testimony, when coupled with the other corroborative evidence which may be furnished by the prosecutor? Lord Chelmsford's reasoning is still more unsatisfactory, for it is based on an utter misconception of the doctrine which "is the boast of our law," and which induces caution lest an innocent man should be wrongfully convicted; "the doubt" of which the prisoner is to have the benefit, is a doubt as to whether he be really guilty. The law does not *favour* the prisoner *as a criminal*, but as a person who may *not* be a criminal. As I once before took occasion to observe, "If a criminal were tried, as a fox is hunted, for the diversion of sportsmen, and it were an object to counsel, as it is to the huntsman, to keep up the breed in order to show sport, it might then be advisable to allow due weight to the doctrine of 'forbearance,' in order to give the valuable prisoner a *fair* chance of escape; but if crime is really to be suppressed, let the conviction of the criminal be as certain as the law can make it. To borrow a sporting phrase, it was not by *giving law* that King Edgar extirpated the wolves from England. (Law Mag., xxviii, No. 57, p. 6.)

> "'Though space and law the stag we lend,
> Ere hound we slip, or bow we bend,
> Who ever reck'd how, where, or when,
> The prowling wolf was trapp'd and slain?'"

(To be continued).

Reviews.

Handy Book for Executors and Administrators. By Thomas Sirrell Pritchard, M.A., Barrister-at-Law. Amer: 1861.

A Handy Book on the Law of Principal and Surety. By Edward Lawrance, Jun., Attorney-at-Law and Member of the Incorporated Law Society. Effingham Wilson: 1861.

Here are two new contributions to the light literature of the profession, albeit the subject of which they treat are of a

nature that rather repels than invites the authors of Handy Books. The law of Executors and Administrators is of very large extent, as is known to every body who has ever turned over the leaves of the ponderous book of Mr. Justice Williams; and in addition to this extensive branch of *law* there is also the very wide field—to some extent still almost unworked—which the Probate Court claims for its own. But Mr. Pritchard boldly undertakes to present "at a glance, if possible," the whole body of law and procedure touching the character, functions, duties, and liabilities of executors and administrators. A reader's glance, however, must be sufficient to take in 176 pages— not very large, to be sure—and to note a very considerable number of chapters and subdivisions embracing a great variety of topics; but yet we can say for this little work, what unfortunately cannot often be said of any of our legal manuals, that it does not consist of an unskilful collection of ill-assorted scraps, taken with or without acknowledgment from some standard work, but that it is the result of the careful attempt of a competent writer to give in the smallest compass a plain and reliable account, for the use of unprofessional persons, of an extensive and complicated head of law. The plan of the book is original, and is well calculated not less for the instruction of young students of law than it is for laymen. No cases are cited, and there is an entire absence of that kind of affectation which exhibits itself in frequent reference to useless authorities. Altogether we can recommend Mr. Pritchard's brochure for, what it professes to be, a handy book on a subject of very general interest.

Mr. Lawrance's little work is intended to supply young practitioners as well as mercantile men and those who feel a special interest in the subject, with a brief summary of the law of principal and surety. He has, in fact, sketched a regular treatise on the entire subject, and has filled in as much of it as is most likely to be valuable for practical purposes. We have no doubt that the work will be found extremely useful by those for whom it is intended. It is the production of one who is well acquainted not only with the theory but the actual practice of law upon the subject of which he treats. We especially commend Mr. Lawrance's book to persons engaged in business, to whom so simple and practical an account of the doctrine of principal and surety will, no doubt, be very acceptable.

Public Companies.

BILLS IN PARLIAMENT

For the Formation of New Lines of Railway in England and Wales.

The following Metropolitan Railway Bills have been referred to a Select Committee of the House of Lords with reference to the displacement of the poor:—

Charing Cross (City terminus).
Finsbury Circus Station.
Hammersmith, Paddington, and City Junction.
Kensington Station and North and South London Junction.
Metropolitan (Finsbury Circus Extension).
Metropolitan (Improvement).
North London (Widening and Extension).
North London (City branch).
Victoria Station and Pimlico Railway.
West London Extension.

The preambles of the following Bills have been proved in committee in the House of Lords:—

Charing Cross (City terminus).
Dartmouth and Torbay.
Edgware, Highgate, and London.
Hammersmith, Paddington, and City Junction.
North London Railway (City Extension).
West London Extension.

The following Bills have passed through committee in the House of Commons:—

Lancashire and Yorkshire (Extension to Settle).
London and North Western (Eccles to Tydesley and Wigan).
Stockton and Darlington.

REPORTS AND MEETINGS.

Caledonian Railway.

At the half-yearly meeting of this company, held on the 15th inst., a dividend at the rate of 5½ per cent. per annum was declared on the ordinary stock of the company.

Caledonian and Dumbartonshire Junction Railway.

At the half-yearly meeting of this company, held on the 13th inst., a dividend at the rate of 5 per cent. per annum was declared, leaving a balance of £973 to be carried forward.

East Anglian Railway.

At the half-yearly meeting of this company, held on the 8th inst., a dividend of 2½ per cent. on the C stock of the company was declared, after providing for the dividends in full on the A and B stock.

Edinburgh and Glasgow Railway.

At the last half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 4½ per cent. per annum was declared, after providing for a dividend of 5 per cent. on the preference stock.

Leeds, Bradford, and Halifax Junction Railway.

At the half-yearly meeting of this company, held on the 8th inst., a dividend at the rate of 6 per cent. per annum was declared for the past half-year, and is now in the course of payment.

Legal and General Life Assurance Society.

The annual general meeting of this society was held on the 12th inst. From the account submitted to the meeting it appears that there has been a considerable accession of new premiums during the past year, the sum of £14,054 12*s.* 6*d.* having been received in respect thereof. The assets of the company on the 31st of December amounted to the sum of £1,167,650 7*s.* 10*d.*

Llanidloes and Newtown Railway.

At the half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 5 per cent. per annum was declared.

Llynvi Valley Railway.

At the half-yearly meeting of this company, held on the 14th inst., after providing for the 5 per cent. preference dividend, a bonus of 2 per cent. on the ordinary shares of the company was declared for the last half-year. This, with the 3 per cent. paid for the previous half-year, makes the total payment for the year on the ordinary shares, 5 per cent.

Newcastle and Carlisle Railway.

The directors, by their report, recommend a dividend of £3 17*s.* 6*d.* per cent. for the last half-year, making, with the dividend previously paid, £7 per cent. for the year. This will leave a balance of £2,833 to be carried forward.

Scottish North Eastern Railway.

At the half-yearly meeting of this company, held on the 8th inst., a dividend at the rate of 10*s.* per cent. per annum was declared on the ordinary Aberdeen stock.

West Hartlepool.

At the recent half-yearly meeting of this company a dividend at the rate of 5 per cent. per annum was declared upon the consolidated stock of the company.

International Exhibition, 1862.—It has been certified that the aggregate of the sums, expressing the limits of the liability of the persons who executed the deed of guarantee for enabling the Commissioners for the Exhibition of 1862 to obtain advances from the Bank of England, amounts to the sum of £250,000.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. Frederick Meadows White, on Common Law and Mercantile Law, Monday, March 18.

The lectures will be resumed in November next.

COURT OF CHANCERY.

The following return has been presented to Parliament.

A return from the Accountant-General of the High Court of Chancery, pursuant to the 63rd section of an Act passed in the fifth year of her Majesty Queen Victoria, intituled, "An Act to make further Provisions for the Administration of Justice," showing the state of the several funds in his name, called "The Suitors' Fund," and "The Suitors' Fee Fund, and the charges upon the same respectively.

THE SUITORS' FUND for the year commencing 2nd October, 1859, to the 1st October, 1860.

	Cash. £ s. d.	Cash. £ s. d.
To cash paid three masters' salaries at £2,500 per annum	7,192 14 2	
,, Accountant-General's salary as master (six months, due 5 January, 1860, at £600 per annum)	283 15 0	
,, Pensions to retired masters	11,367 3 9	
,, Compensation to chief clerks to masters, pursuant to Act 15 & 16 Vict. c. 80	1,077 0 7	
,, Ditto to one chief clerk to master, pursuant to Act 10 & 11 Vict. c. 97	641 13 6	
,, Ditto to three junior clerks to masters	1,340 4 5	
		21,902 11 5
,, Salaries to eleven assistant clerks to registrars		1,053 0 5
,, Pensions to five retired registrars	9,707 7 1	
,, Ditto to registrar's bag-bearer	186 13 8	
		9,894 0 9
,, Accountant-General's salary	861 11 3	
,, Expenses of office, office-keeper, water-rate, stationery, &c.	430 15 9	
,, Thirty-five clerks' salaries	8,273 6 2	
,, Pensions to three retired clerks	2,221 18 2	
		11,787 11 4
Officers of the Lord Chancellor's Court:		
,, Court-keeper	86 13 0	
,, Persons to keep order	231 0 0	
,, Tipstaff	191 9 2	
,, Clerk in secretary's office	95 14 7	
		604 16 9
Officers of the Lords Justices' Court:		
,, Secretaries	676 13 4	
,, Ushers	482 16 6	
,, Trainbearers	193 2 6	
,, Persons to keep order	154 10 0	
		1,507 2 4
Officers of Vice-Chancellor Kindersley's Court:		
,, Secretary	507 10 0	
,, Usher	191 9 2	
,, Trainbearer	95 14 7	
,, Person to keep order	77 5 0	
		871 18 9
Officers of Vice-Chancellor Stuart's Court:		
,, Secretary	289 13 9	
,, Usher	193 2 6	
,, Trainbearer	96 11 3	
,, Persons to keep order	138 7 5	
		717 14 11
Officers of Vice-Chancellor Wood's Court:		
,, Secretary	289 13 9	
,, Usher	193 2 6	
,, Trainbearer	96 11 3	
,, Persons to keep order	154 5 0	
		733 12 6
,, Assistant junior clerks to the judges		919 0 0
,, Surveyor's salary		77 0 0
,, Solicitors to suitors, in lieu of costs	1,200 0 0	
,, Ditto . . . . for counsel's fees, insurance and disbursements	468 11 5	
		1,668 11 5
,, Compensation to officers of the court of exchequer		3,841 12 1
,, Ditto to officers of the subpœna office, doorkeeper, crier and usher of the Court, deputy secretary of decrees and injunctions, and one clerk in the late clerks of accounts' office		1,678 14 2
,, Expenses of courts, registrars' offices, masters' offices, report and other offices, for rent, repairs, rates, stationery, coals, candles, gas, servants' wages, &c.		3,853 6 1
,, Costs of contempt under Sir E. Sugden's Act		228 0 1
Total payments		61,338 13 0
Surplus interest carried over to the "Suitors' Fee Fund Account," as directed by the 15 & 16 Vict. c. 87, s. 53		51,162 9 3
		£112,501 2 3

	Cash.	Stock.
By balance on the 1st October, 1859	19,902 10 10	3,904,989 15 1(a)
„ Dividends received during the year	112,133 9 1	—
„ Cash received for rent of masters' office, pursuant to Act 15 & 16 Vict. c. 80	520 0 0	—
„ Stock purchased with suitors' cash	—	214,165 6 0(a)

(a) viz.

	£	s.	d.
	2,613,360	14	3
	214,165	6	0
Fund A	2,827,526	0	3
Fund B	1,291,629	5	6
Total	4,119,155	5	9

Note.—ED. *S. J.*

	132,555 19 11	
Total payments and surplus interest carried over to the Suitors' Fee Fund account	112,501 2 3	
Balance 1st October, 1860	20,054 17 8	4,119,155 1 1

THE SUITORS' FEE FUND ACCOUNT, from the 24th November, 1859, to 25th November, 1860.

Officers of the Courts of the Lord Chancellor, Master of the Rolls, and Vice-Chancellors, pursuant to 15 & 16 Vict., c. 87		7,473 9 3
Salaries to eight senior clerks, to the Master of the Rolls, and the Vice-Chancellors	11,700 0 0	
Ditto to sixteen junior clerks to ditto	4,400 0 0	
Rent of chambers	954 6 3	
Total court expenses		17,054 6 3
Compensation to two masters at £725 per annum	1,450 0 0	
Salaries to four masters' chief clerks at £1,000 each	3,421 4 0	
Ditto and compensation to four masters' junior clerks	2,093 17 11	
Compensation to one chief clerk to master	1,250 0 0	
Total masters		8,215 1 11
Salaries to eleven registrars	17,150 0 0	
Allowances for writing to Registrars, under 3 & 4 Will. 4, c. 94, s. 48, and 5 Vict., c. 5, s. 63	1,100 0 0	
Salaries to registrars' clerks	6,900 0 0	
Bag bearers to registrars	300 0 0	
Salaries to two clerks of entries	635 0 0	
Total registrars		26,085 0 0
Salaries attached to the office of master of reports and entries, under 18 & 19 Vict., c. 134		1,000 0 0
Salaries to two examiners	3,000 0 0	
Ditto to two clerks to ditto	740 0 0	
Compensation to late examiner	50 19 0	
Total examiners		3,790 19 0
Salaries, &c., under 5 & 6 Vict., c. 84, and Lunacy Regulation Act, 1853:		
Two masters in lunacy, salaries	4,000 0 0	
Ditto travelling expenses	1,108 13 0	
Ditto rent of premises	430 10 0	
Ditto expenses of offices	356 6 7	
Ditto salaries to nine clerks	3,500 0 0	
Registrar in lunacy, salary	800 0 0	
Ditto salaries to four clerks	930 0 0	
Compensation to late commissioners in lunacy	375 0 0	
Visitors of lunatics' salaries	1,375 0 0	
Ditto travelling expenses	1,076 6 0	
Ditto secretary	300 0 0	
Ditto one clerk to secretary	150 0 0	
Ditto rent of premises	60 0 0	
Ditto expenses of office	124 19 8	
Total in lunacy		14,580 15 3
Compensation to late clerks of affidavits		1,306 10 2
Salaries, &c., under 5 & 6 Vict., c. 108:		
Seven taxing masters	13,972 4 6	
Fourteen clerks to ditto	3,395 0 0	
Messenger to ditto	200 0 0	
Rent of taxing masters' offices	800 0 0	
Clerk of enrolments	1,200 0 0	
Three clerks to ditto	750 0 0	
Three clerks of records and writs	4,200 0 0	
Fifteen clerks to ditto	3,762 7 3	
Office keeper and messenger to ditto	260 0 0	
		28,539 11 9
Clerks and messengers in Report Office, under 18 & 19 Vict., c. 134		1,000 0 0
Salaries to two clerks of the Petty Bag Office, under 12 & 13 Vict., c. 110		800 0 0
Accountant-General in lieu of brokerage, under 15 & 16 Vict., c. 87, s. 19		2,700 0 0
Increased salary to some of the Accountant-General's clerks, under 15 & 16 Vict., c. 87, s. 39		2,122 9 10
Compensation to late clerks of accounts, under 15 & 16 Vict., c. 87		2,000 0 0
Compensation for loss of office and profits, under 5 & 6 Vict., c. 103:		
Twenty-one sworn clerks and messenger	28,700 17 9	
One agent to ditto	923 3 4	
		29,624 1 1
Copy money for writing and copying in the offices of the clerk of enrolments, the clerks of records and writs, the registrar in lunacy, the clerks of entries, and the Petty Bag Office		5,595 14 3
Expenses of the various courts and offices for stationery, coals, candles, servants' wages, rates and taxes, and for furniture, &c.		5,103 15 3
Total payments		£156,991 14 0

	£. s. d.
Cash paid in by the clerk of the crown, clerk of patents, pursebearer, tipstaff and messenger, on account of fees formerly payable to the Lord Chancellor	946 3 9
Cash brought over from various causes, matters, and accounts, in lieu of fees formerly paid at the taxing masters'	12,982 4 2
Cash brought over on account of per-centages on income from several matters and accounts in lunacy	6,549 10 0
Cash paid in by clerk of enrolments	5,102 4 5
Cash paid in by clerk of petty bag office	562 11 0
Cash paid in for poundage under the Winding-up Act	1,429 8 0
Cash paid in by the Commissioners of Inland Revenue, in respect of money received by them for chancery fee fund stamps	69,588 4 7
Interest brought over from "money arising from sale of the six clerks' office"	43 6 10
Surplus interest brought over from Suitors' Funds, under 15 & 16 Vict. c. 87, s. 56	51,162 9 3
Interest brought over from "monies placed out to provide," &c., under 15 & 16 Vict. c. 87, s. 54	5,741 17 4
Cash paid in by the Accountant-General for brokerage, under 15 & 16 Vict. c. 87, s. 18	4,105 8 6
Total income for the year ending 25th November, 1860	158,213 7 10
Deduct total payments for the same period	156,991 14 0
Excess of income over expenditure for the year ending 25th November, 1860	1,221 13 10
Add balance of cash on this account on 24th November, 1859	83,557 13 8
Balance of cash on this account on 24th November, 1860	£84,779 7 6

Account of Monies placed out to provide for the Officers of the High Court of Chancery, from the 24th November, 1859, to 25th November, 1860.

	Cash. £ s. d.	Stock. £ s. d.
Interest carried over to Suitors' Fee Fund account, under 15 & 16 Vict. c. 37, s. 54	5,741 17 4	—
Balance 24th November, 1860.	—	201,028 2 3
	£ 5,741 17 4	201,028 2 3
Balance on 24th November 1859	—	201,028 2 3
Dividends received during the year	5,741 17 4	—
	£5,741 17 4	201,028 2 3

Statistics of the Divorce Act.—A series of interesting returns, giving statistics connected with the Divorce Court, have recently been issued. The first return has been compiled with the view of showing what number of the suits which have occupied the Divorce Court since the passing of the Act under which it is constituted have arisen from acts of adultery committed anterior to that date. The whole number of petitions for dissolution of marriage on the ground alluded to which have come before the Court is 604. In by far the majority of these cases, however, the Court was simply engaged in discharging the arrears of business which had accumulated before its establishment. No fewer than 386 suits arose from acts of adultery committed in byegone years, and in one case, a petition refers to events which took place in the year 1823. As these figures bear upon the controversy which preceded the passage of the Act, it may be worth while to give some of them in detail. The number of petitions relating to acts of adultery committed in the year 1850 were 27; for the year 1851 they were 30; for 1852, 25; 1853, 36; for 1854, 38; for 1855, 39; for 1856, 59. For the earlier portion of the year 1857, up to the 28th of August, the date at which the Act was passed, the number of petitions was 36, and for the remainder of the year, 43, making a total for that year of 79. For the next year they were still more numerous—85; but in 1859 there is a decrease, the number being 66; while in 1860, up to the 21st of August, the date at which the return was moved for, the number was only 24. Another table, compiled on a principle similar to that of the first, relates to petitions for judicial separation. As the numbers in this case are considerably smaller. we need not examine them in detail. The total number of such petitions is 195. Thirty-one relate to alleged acts of adultery committed in 1857, and 26 to those of 1858, but in all the other years the numbers are considerably less.

The will of James Russell, Esq., Q.C., was proved in London on the 25th ult., by his relict, power being reserved to the other executors. The personalty was sworn under £100,000. The will was executed in 1846, and two codicils in 1854. To his relict he bequeaths an annuity of £1,000, and an immediate legacy of £1,200, stating that he gives her these bequests out of love and regard, as she is amply provided for by deeds of settlement, added to which he leaves her his town residence and all his furniture. His estate at Tor Royal he has left to his eldest son, whom he has appointed his residuary legatee, and to whom he has given the prizes he (the testator) obtained when at school and at college, as well as the medal which he received as a badge of distinguished merit when a student at the University; to each of his sons the testator has given a legacy of £10,000; and to each of his daughters, on attaining twenty-one, or marriage, he has given a legacy of £3,000, and a life interest also in £5,000 to each of them, which bequests are also further increased by legacies in the codicils. There are some small annuities and legacies left by the testator to his brothers, sisters, and other relatives and friends; and Mr. Russell has left to his clerk, Mr. Wallace, an annuity of £100. His law library he has bequeathed to his two sons, James Cholmeley and Richard Bruce. To his executors, the Hon. Edward Lascelles and K. D. Hodgson, Esq., and to the father of the latter gentleman, he leaves the sum of fifty guineas each, and a like legacy to his intimate friend Lord Justice Knight Bruce.

Births, Marriages, and Deaths.

BIRTHS.

LEWIS—On March 12, the wife of Charles Warner Lewis, Esq., Barrister-at-law, of a daughter.

PRUDENCE—On March 6, the wife of Stanley G. Prudence, Esq., Solicitor, of a son.

WHITE—On Feb. 27, prematurely, the wife of Arthur White, Esq., Barrister-at-Law, of a son, stillborn.

MARRIAGES.

CUMMING—FRASER—On March 14, James Bannerman Cumming, Esq., of Singapore, to Elizabeth Sarah, widow of the late Edward Fraser, Esq., Advocate.

GREEN—PHILLIPS—On March 6, John Matthias Green, Esq., Solicitor, to Adelaide, daughter of Thomas Phillips, Esq., Wellington Road, Edgbaston.

DEATHS.

CAPES—On March 14, Sophia, wife of George Capes, Esq., of Gray's-inn, aged 56.

HUSON—On March 8, aged 86, Isabella Anne, Relict of Nathaniel Huson, Esq., Barrister-at-law.

M'CARTHY—On March 3, at Macroom, Charles M'Carthy, Esq., Solicitor, son of the late Justin M'Carthy, Esq., Barrister-at-Law, of Cork.

PARKER—On Feb. 27, Elizabeth, daughter of the late Benjamin Parker, Esq., Solicitor, of Birmingham.

POWELL—On March 6, Arthur Powell, Esq., Solicitor, late of Debenham, Suffolk, aged 52.

REXWORTHY—On Feb. 21, aged 46, John Rexworthy, Esq., Solicitor, of Lincoln's-inn.

SMITH—On March 6, Elizabeth, the wife of George Smith, Esq., Solicitor, Leek, aged 43 years, deeply regretted.

SWAN—On March 5, Mary Ann, wife of Henry Swan, Esq., of Doctors'-commons, Solicitor, aged 57.

TURNLEY—On March 3, aged 16 years and 3 months, Thomas Frederic Budd, the only child of Thos. W. Turnley, Esq., Solicitor, Bedford.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BICKERSTETH, HENRY, Esq., Lincoln's-inn (afterwards Lord Langdale), and ROBERT BICKERSTETH, Surgeon, Liverpool, £200 Consols.—Claimed by KATHARINE BICKERSTETH, Widow, and EDWARD ROBERT BICKERSTETH, acting executors of Robert Bickersteth, who was the survivor.

DEAN, THOMAS, Printer, Threadneedle-street, £4,000 Consols.—Claimed by HENRY ALCOCK, one of the executors of Mary Ann Dean, Widow, who was the sole executrix of the said Thomas Dean.

FASSETT, ELIAS DE GRUCHY, Gent., St. Thomas's-place, Old Kent-road, and MARGARET FASSETT, his wife, Twenty dividends on the sum of £6, Annuity for term of years expired 5th January, 1860.—Claimed by GEORGE WOOD and WILLIAM FASSETT, executors of Elias de Gruchy Fassett, who was the survivor.

FLETCHER, JOSEPH, Ship-builder, Shadwell-dock, HENRY WATSON, Esq., Beckingham, Notts, and GERVASE KING HOLMES, Esq., East Retford, Notts, £2,205 Consols.—Claimed by HENRY WATSON and GERVASE KING HOLMES, the survivors.

LAKE, JOHN, Gent., Lincoln's-inn, £2,222 4s. 5d. Consols.—Claimed by GEORGE LAKE, one of the executors of the said John Lake.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

	ENGLISH FUNDS.			RAILWAYS—*Continued.*	
			Shrs.		
	Bank Stock	..	Stock	Ditto A. Stock	101½
	3 per Cent. Red. Ann..	..	Stock	Ditto B. Stock	131
	3 per Cent. Cons. Ann.	91⅞	Stock	Great Western	71
	New 3 per Cent. Ann..	..	Stock	Lancash. & Yorkshire	111½
	New 2½ per Cent. Ann.	..	Stock	London and Blackwall.	61½
	Consols for account ..	92⅝	Stock	Lon. Brighton & S. Coast	116½
	India Debentures, 1858.	93⅝	25	Lon. Chatham & Dover	49
	Ditto 1859.	..	Stock	London and N.-Wstrn..	96⅜
	India Stock	..	Stock	London & S.-Westrn.	91½
	India 5 per Cent. 1859..	dis.	Stock	Man. Sheff. & Lincoln..	47⅝
	India Bonds (£1000) ..	dis.	Stock	Midland	128½
	Do. (under £1000).....	..	Stock	Ditto Birm. & Derby	103
	Exch. Bills (£1000)...	5 pm.	Stock	Norfolk.....	54
	Ditto (£500)....	5 pm.	Stock	North British	64½
	Ditto (Small) ..	5 pm.	Stock	North-Eastn. (Brwck.)	102¼
			Stock	Ditto Leeds	61
			Stock	Ditto York	91½
	RAILWAY STOCK.		Stock	North London.....	100
			Stock	Oxford, Worcester, & Wolverhampton ..	..
Stock	Birk. Lan. & Ch. Junc.	82			
Stock	Bristol and Exeter	102	Stock	Shropshire Union	56
Stock	Cornwall	6½	Stock	South Devon	41
Stock	East Anglian	17⅞	Stock	South-Eastern	84½
Stock	Eastern Counties	50½	Stock	South Wales	59½
Stock	Eastern Union A. Stock	38	Stock	S. Yorkshire & R. Dun	94½
Stock	Ditto B. Stock	27½	25	Stockton & Darlington	41½
Stock	Great Northern	109	Stock	Vale of Neath	76

London Gazettes.

Professional Partnership Dissolved.

TUESDAY, March 12, 1861.

PAIN, THOMAS, & W. RAWLINS, Attorneys & Solicitors, Winchester, and Whitchurch, Hants, by mutual consent. Feb. 1.

Winding-up of Joint Stock Companies.

TUESDAY, March 12, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED).—V. C. Wood will on March 21, at 12.30, appoint an Official Manager or Official Managers of this Company.

ERA ASSURANCE SOCIETY.—V. C. Wood will, on March 26, at 3, proceed to make a call on all Contributories of the said Society, for 30s. per share.

FRIDAY, March 15, 1861.

UNLIMITED IN CHANCERY,

HERALD LIFE ASSURANCE SOCIETY.—The M.R. will, on March 22, at 1, proceed to make a call on contributories of the company for £1 10s. per share.

RISCA COAL AND IRON COMPANY.—Petition to wind up, presented on the 14th March, will be heard before the M.R. on March 23. Solicitors, Fairoye, Sawtell, & Lightfoot.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 12, 1861

CLEGG, WILLIAM, Hat Manufacturer, Grantham, Lincolnshire. Malin, Solicitor. May 17.

COWDRY, WILLIAM GEORGE, Esq., 13, Beaufort-buildings, West, Bath. Dowding & Burne, Solicitors, 15, Vineyards, Bath. May 7.

COX, GEORGE, Watch & Chronometer Jeweller, 15, Lower Smith-street, Clerkenwell, Middlesex. Wedlake, Solicitor, 2, Cook's-court, Serle-street, Lincoln's-inn, Middlesex. May 1.

DOWMAN, JAMES, Gent., 5, Peacock-street, St. Mary, Newington, Surrey. Domville, Lawrence, & Graham, Solicitors, 6, New-square, Lincoln's-inn, London. May 7.

EDWARDS, JOHN, Gent., Newport, Isle of Wight. W. & A. F. Morgan, Solicitors, 37, Waterloo-street, Birmingham. May 1.

FOOT, WILLIAM, Plumber, Bath. Stone, Chamberlayne, & King, 13, Queen-square, Bath. May 27.

RAY, JOHN, Esq., Crowdleham House, Kemsing, near Seven Oaks, Kent. Sawyer & Bretteli, Solicitors, 2, Staple-inn, Holborn. May 14.

READ, CHARLES, Gent., Binstead House, Arundel, Sussex. Hill & Fitzhugh, Solicitors, Brighton, Sussex. April 5.

RUSSELL, HANNAH, Spinster, Shrewsbury. Wedlake, 2, Cook's-court, Serle-street, Lincoln's-inn, Middlesex, and Kough, Swan-hill, Shrewsbury, Joint Solicitors. April 20.

SADLER, HENRY, Rev., Clerk, Ulcomb, Kent. Monckton & Son, Solicitors, Maidstone, Kent. April 5.

WHIPHAM, THOMAS HENRY, Esq., late of Strand House, Strand-on-the-Green, Turnham-green, Middlesex. Robinson & Haycock, Solicitors, 32, Charter-house-square, Middlesex. May 30.

WOOD, WILLIAM, Gent., Sowerby, Thirsk, Yorkshire. Weatherill, Solicitor, Guisborough, Yorkshire. May 10.

FRIDAY, March 15, 1861.

CLEVELAND, ELIZABETH, Mrs., Widow, Woolwich, Kent. Sladen, Solicitor, 14, Parliament-street, S.W. April 10.

CROWTHER, JOSEPH, Gent., Horwick, Lancashire. Hill, Solicitor, 42, South John-street, Liverpool. May 1.

FROST, FRANCIS AYLMER, Corn Miller, Chester. Payne, Solicitor, Liverpool. May 1.

GROVE, JAMES, a Lieutenant in her Majesty's Army, formerly of Dawlish, Devonshire, afterwards of Southampton, afterwards of Woburn-place, Russell-square, London, and late of High Wycombe, Bucks. Puddicombe, Solicitor, 3, Furnival's-inn, London. May 24.

HALL, GEORGE, Solicitor, 11, New Boswell-court, Lincoln's-inn, London. Hunt, Solicitor, 14, New Boswell-court, Lincoln's-inn. May 1.

HASTINGS, Right Hon. JACOB Lord HASTINGS, Melton Constable, Norfolk, and Seaton Delaval, Northumberland. Kent, Watson, & Watson, Solicitors, Fakenham, Norfolk. May 1.

KEMP, ELEANOR, Spinster, Lovaine-place, Newcastle-upon-Tyne. Fenwicks & Falconar, Solicitors, Clayton-street, Newcastle-upon-Tyne. May 1.

PEARSON, WILLIAM, Secretary to the Leeds Tradesmen's Benevolent Institution, Leeds. Rider, Solicitor, 15, Park-row, Leeds. April 13.

PIGGOTT, RICHARD, Yeoman, Bledlow-house, Bledlow, Buckinghamshire. Church & Sons, Solicitors, 9, Bedford-row. April 30.

VINCENT, RICHARD WEEKES, Esq., Cowfold, Sussex. Rawlison, Solicitor, Horsham, Sussex. May 15.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 12, 1861.

BALLENY, ROBERT, Gent., Little Greencroft, Durham. Jefferson *v.* Balleny, V. C. Stuart. April 9.

CUDDON, JAMES, Esq., Norwich. Cuddon *v.* Cuddon, M. R. April 12.

DENNIS, SAMUEL GEORGE, Esq., formerly of Beaumont, Essex, but for some time previous to his death residing at St. Vincent, Addington Park, near Maidstone, Kent. Matson *v.* Dennis, V. C. Stuart. April 16.

HUSBAND, THOMAS MATTHEW, Publican, 2, Retreat-cottages, Hackney, Middlesex. Beynon *v.* Vaughan, V. C. Stuart. March 27.

KITCHEN, WILLIAM HENRY, Esq., Keith House, Uxbridge-road, Hammersmith, Middlesex. Bethell *v.* Kitchen, V. C. Kindersley. April 10.

MORGAN, JOHN, Tailor, 5, Albermarle-street, St. George, Hanover-square, Middlesex, and of 104, George-street, Edinburgh. Robertson *v.* Morgan, M. R. April 10.

PARKER, EMMA, Spinster, Leamington Priors, Warwickshire. Newall *v.* Sneyd, M. R. April 8.

PARKER, WILLIAM, Esq., Leamington Priors, Warwickshire. Newall *v.* Sneyd, M.R.

ROWSON, DANIEL THOMASSON, Gent., Tugby, Leicestershire. Rowson *v.* Harrison, M. R. April 9.

SCHOLEY, THOMAS, Engineer, Machinist, Ballast & Gravel Merchant, & Dredger, Baalzephon-street, Bermondsey, Surrey. Scholey *v.* Scholey, M. R. April 8.

STEPHENS, STEPHENS LYNE, Esq., Rochampton, Surrey. Bulkeley & Other *v.* Stephens & Others, V.C. Stuart. April 10.

STUART, GEORGE, a Colonel in her Majesty's Army, Barton-in-the-Clay, Bedfordshire, and Painswick, Gloucestershire. Stuart *v.* Shepard, V.C. Kindersley. April 10.

WALTHEW, RICHARD SMITH, Auctioneer & Surveyor, Birmingham. Brooks *v.* Walthew, V.C. Stuart. April 15.

WILLIAMS, THOMAS, Farmer, Llanfawr, Llangristiolus, Anglesea. Williams & Others *v.* Jones & Another, M.R. April 8.

FRIDAY, March 15, 1861.

GRIFFITH, ANNE ELIZABETH, Spinster, 8, Victoria-grove-terrace, Bayswater, Middlesex. Moody *v.* Grey, M.R. April 18.

JONES, JOHN, Captain in her Majesty's 81st Regiment of Foot, 10, Howley-street, Lambeth, Surrey. Jones *v.* Jones, V.C. Stuart. March 22.

SMITH, WILLIAM, Coachman, Epping, Essex. Smith *v.* Smith, M.R. April 12.

WITTING, JAMES, Gent., Kingston-upon-Hull. Witting *v.* Witting, V.C. Stuart. April 20.

Assignments for Benefit of Creditors.

TUESDAY, March 12, 1861.

BROOKES, JAMES, Grocer & Provision Dealer, Burton-upon-Trent, Staffordshire. *Sols.* Perks & Prince, Burton-upon-Trent. Feb. 28.

Burrows, Joseph, Cabinet Maker, Chesterfield, Derbyshire. *Sol.* Cutts, Chesterfield, and Gray's-inn, London. March 7.

Chase, Richard, Cheese Factor, Bristol. *Sol.* Henderson, Bristol. Feb. 14.

Wright, Thomas, Carpenter & Builder, Foots Cray, Kent. *Sol.* Gibson, Dartford, Kent. Feb. 28.

Friday, March 15, 1861.

Clark, William James, Wheelwright & Blacksmith, Great Burstead, Essex. *Sol.* Woodard, Billericay, Essex. Feb. 16.

Fisher, John, Glass and Earthenware Dealer, Sheffield. *Sol.* Bamforth, Rotheram, Yorkshire. Feb. 26.

Gascoyne, Thomas Henry, Farmer, Wimblington, Cambridgeshire. *Sols.* Wise & Dawburn, March. March 2.

Hughes, Frederick, Tailor & Draper, 24, Triangle, Clifton, Bristol. *Sol.* Sherrard, Bristol. Feb. 20.

Jesse, Francis, Innkeeper, Bell Inn, St. Ann-street, Salisbury. *Sol.* Wilson, Sheffield. March 2.

Loveday, John, Miller, Sheepshead, Leicestershire, *Sol.* Baker, Derby. March 11.

Marsden, William, Flint Glass Manufacturer, Manchester. *Sol.* Bennett, 16, Kennedy-street, Manchester. Feb 16.

Smith, John, Tailor & Beerseller, Coalville, Leicestershire. *Sol.* Billings, Leicester. March 1.

Stephens, Henry, Tailor & Outfitter, Devonport. *Sols.* Nichols & Clark, 9, Cook's-court, Lincoln's-inn. March 4.

Ward, Thomas, Stationer, 23, Princess-terrace, Caledonian-road, Middlesex. *Sol.* Dean, 27, New Broad street, City. March 8.

Bankrupts.

Tuesday, March 12, 1861.

Ballinger, William, Maltster, Brewer, & Baker, Swansea, Glamorganshire. *Com.* Hill: March 26, and April 23, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Taddy, Bristol. *Pet.* March 9.

Bridger, John, Grocer, Cheesemonger, and Tea Dealer, 1, Florence-terrace, New Cross-road, Deptford, Kent. *Com.* Fonblanque: March 19, at 12, and April 17, at 1; Basinghall-street. *Off. Ass.* Graham. *Sol.* Peddel, 82, Cheapside, London. *Pet.* March 8.

Bryce, Alexander, & James Shuttlewood Oswin, Merchants & Commission Agents, Manchester. *Com.* Jemmett: March 27, and April 17, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester. *Pet.* March 7.

Clench, Henry, Milliner, 8, High-street, Newington-butts, Surrey. *Com.* Fonblanque: March 26, at 12.30, and April 23, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Lawrance, Smith, & Fawdon, 12, Bread-street, London. *Pet.* March 11.

Fleming, Thomas, Manufacturer, Halifax, Yorkshire. *Com.* Ayrton: March 20, and April 22, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Holroyde & Cronheim, Halifax, or Bond & Barwick, Leeds. *Pet.* March 11.

Hainsworth, Jonathan, Plumber & Glazier, Halifax, Yorkshire. *Com.* West: March 22, and April 26, at 11; Leeds. *Off. Ass.* Young. *Sols.* Wavell, Philbrick, & Foster, Halifax, or Bond & Barwick, Leeds. *Pet.* March 8.

Harrison, Susan Catherine, Innkeeper, Ipswich, Suffolk. *Com.* Fane: March 22, at 1, and April 19, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Aldridge & Bromley, Gray's-inn; or J. Orford, jun., Ipswich. *Pet.* March 8.

Horner, James Richard, Corn Merchant, Ashton-under Lyne. *Com.* Jemmett: April 4 & 18, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Boote, 52, Brown-street, Manchester. *Pet.* March 7.

Ingram, Edwin, Grocer & Corn Factor, Bilston, Staffordshire. *Com.* Sanders: March 22, and April 18, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Southall & Nelson, Birmingham. *Pet.* March 9.

Payne, Jonathan, Horse Dealer, 84, Milton-street, Dorset-square, Middlesex. *Com.* Holroyd: March 25, and April 27, at 12: Basinghall-street. *Off. Ass.* Edwards. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London. *Pet.* March 9.

Rawson, Harry, Stationer & Printer, Manchester. *Com.* Jemmett: March 27, and April 18, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester. *Pet.* March 8.

Rosenthal, Simon Jonas, & Henry Simon Rosenthal, 11, Dale-street, and 3, Newington, Liverpool, Billiard Table Proprietors, and 63, Renshaw-street, Liverpool, Butchers. *Com.* Perry: March 22, and April 11, at 11; Liverpool. *Off. Ass.* Morgan. *Sol.* Thornley, 18, Leicester-buildings, King-street, Liverpool. *Pet.* March 8.

Sutcliffe, Joseph, Upholsterer, Scarborough, Yorkshire. *Com.* Ayrton: March 25, and April 22, at 11: Leeds. *Off. Ass.* Hope. *Sols.* Lawrence, Smith, & Fawdon, Bread-street, London; or Bond & Barwick, Leeds. *Pet.* March 2.

Friday, March 15, 1861.

Blood, Edward, Innkeeper, Leicester. *Com.* Sanders: March 26, and April 25, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Dudley, Leicester. *Pet.* March 14.

Bell, Thomas, Machine and Roller Maker, Bolton, Lancashire *Com.* Jemmett; March 26, and April 23, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Richardson & Hinnell, Bolton, and St. Ann's-place, Manchester. *Pet.* March 6.

Green, John Thompson, Manufacturer of Materials for making Paper, Garratt Mills, Wandsworth, Surrey. *Com.* Fane; March 28, at 2, and April 26, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Preston & Webb, 9, Carey-street, Lincoln's-inn. *Pet.* March 13.

Griffin, Edward, Woollen Warehouseman, 28, Basinghall-street, London. *Com.* Goulburn: March 25, and April 24 at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Huson and Parker, 4, King-street, Cheapside, London. *Pet.* March 6, 1861.

Lightfoot, Edward, Confectioner, Nantwich. *Com.* Perry: March 27, at 12, and April 17, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Tyrer, Union-buildings, 16, North John-street, Liverpool. *Pet.* March 13.

Savage, Thomas, Smallware Dealer, Macclesfield. *Com.* Jemmett: April 4 and 18, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Livett & Beckett, Princess-street, Manchester. *Pet.* March 5.

Steven, Robert Cockburn, Grocer & Provision Merchant, West Hartlepool, Durham. *Com.* Ellison: March 25, and May 8, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker, *Sols.* Harle & Co., 20, Southampton-buildings, Chancery-lane, London, and 2, Butcher-bank, Newcastle-upon-Tyne. *Pet.* March 12.

Ward, William, Farmer & Cattle Dealer, Boothby Pagnell, Lincolnshire. *Com.* Sanders: March 26, and April 18, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Smith, High-street, Nottingham. *Pet.* March 14.

Weatherill, Henry, Coach Builder, Kingston-upon-Hull. *Com.* Ayrton: March 27, and May 1, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Summers, 1, Manor-street, Kingston-upon-Hull. *Pet.* March 6.

Bankruptcies Annulled.

Friday, March 15, 1861.

Millward, William, Grocer & Provision Dealer, formerly of Birmingham, afterwards of Aston, near Birmingham, and then of Kates-hill, Dudley, Worcestershire. Jan. 24.

Phillipp, David, & Moritz Vinesberg, Importers of Foreign Goods, 1, Guildhall-chambers, Basinghall-street, London (D. Phillipp & Co.) March 12.

Meetings for Proof of Debts.

Tuesday, March 12, 1861.

Allen, Charles, Grocer, Risca, Monmouthshire. April 4, at 11; Bristol.—Allen, Vincent, Draper, Newport, Monmouthshire. April 4, at 11; Bristol.—Aubert, Alfred, & Champney Powell, Ship and Insurance Brokers, & Wine Merchants, 17, St. Mary-axe, London. April 5, at 1; Basinghall-street.—Broad, James, Coach Ironmonger, 149, & 150, Drury-lane, Middlesex. April 3, at 12; Basinghall-street.—Burrows, Moses Hindle, Worsted Spinner, Wakefield. April, 16, at 11; Leeds.—Burton, Benjamin Fletcher, Timber Merchant, Nottingham. April 4, at 11: Nottingham.—Cook, William, sen., Farmer, Grazier, & Corn Dealer, Great Harrowden, Northamptonshire. April 4, at 11.30; Basinghall-street.—Hammond, Samuel, Flax Spinner, Leeds. April 16, at 11; Leeds.—Hooper, Cleeve Woodwood, & Henry Parkinson, Leather Factors & Leather Merchants, Seething-lane, London (Hooper & Parkinson). April 4, at 12; Basinghall-street.—More, William Simpson, Share Broker, Liverpool. April 5, at 11; Liverpool.—Mullett, William, Grocer & Draper, Brookland, Romney, Kent. April 4, at 11; Basinghall-street.—Pickett, Augustus, Coal Merchant & Cement Manufacturer, 60, Queen's-road, Brighton. April 5, at 12: Basinghall-street.—Porteous, William, Linen Draper & Hatter, 5, Bond-street, Brighton, Sussex. April 4, at 12; Basinghall-street.—Pringle, Thomas Whitaker, late Draper & Grocer, Blyth, Nottingham, now Grocer, Hawley-place, Kentish Town, Middlesex. March 25, at 2; Basinghall-street.

Friday, March 15, 1861.

Gibson, William, Draper, Castle Donington, Leicestershire. April 13, at 11; Nottingham.—Harland, Joseph, Cloth Merchant, Leeds. April 5, at 11; Leeds.—Holland, Joseph, & Samuel Henry Holland, Printers & Paper Dealers, Birmingham (Joseph Holland & Son). April 24, at 11; Birmingham.—Jennings, John, Printer, Gough-square, Fleet-street. April 5, at 2; Basinghall-street.—Lofthouse, John Steele, Licensed Victualler, 34, Lime-street, Liverpool. April 11, at 11; Liverpool.—Marns, George Thomas, Rope Maker, Arbour-place, Fairfields, Stepney, Middlesex. March 27, at 11.30; Basinghall street.—Metcalf, John, & John Lilly, Hosiers & Glovers, Birmingham. April 24, at 11; Birmingham.—Payne, Thomas, Grocer & Tea Dealer, King's-heath, Worcestershire, and of Birmingham. April 24, at 11; Birmingham.—Penny, Alfred, Coal Merchant, 2, Richmond-villas, Holloway, Middlesex, and late of Wharf-road, City-road, and Underwriter, Lloyd's Coffee-house, London. April 10, at 2: Basinghall-street.—Somerville, Mathew, Joiner & Packing Case Manufacturer, Liverpool. April 5, at 11; Liverpool.—Sullivan, John Giles, Boot and Shoe Manufacturer, 55, Blackman-street, Southwark, Surrey. April 9. at 1; Basinghall-street.—Thornhill, John, Awl Blade Manufacturer, Sheffield (Thornhill Brothers). April 6, at 10; Sheffield.—Watts, Thomas, Sail and Ship's Colours Maker, Bristol. April 11, at 11; Bristol.—Whitfield, Henry, Linen & Woollen Draper & Laceman, 111, Tottenham-court-road. Middlesex. March 27, at 11; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 23, 1861.

CURRENT TOPICS.

In our Parliamentary report of the discussion upon the Bankruptcy Bill, which took place in the House of Commons on last Monday evening, will be seen what took place upon Sir Richard Bethell's motion to repeal the solicitors' advocacy clause in the Bankrupt Law Consolidation Act, 1849. It is by that enactment that solicitors have the right to appear and plead in courts of bankruptcy without being required to employ counsel. It was thought by many persons, when Sir Richard Bethell gave notice of his intention to move the repeal of this clause, without giving in his notice any intimation of the importance of its provisions, that it was a mere mistake in the number of the section of the Act of Parliament. It was hard to believe that even Sir Richard Bethell had the hardihood to attempt in this covert manner to interfere with the statutory powers and privileges of so large and important a body as the solicitors of England. The sceptics, however, are now left without room for doubt. The Attorney-General moved for, and obtained, a repeal of the clause, observing at the same time, however, that he had no intention to deprive solicitors of any powers or privileges which they now possess; and, therefore, in lieu of the repealed section he proposed a new clause, to be inserted in the present Bill, providing that solicitors may appear and practise in any of the courts of bankruptcy other than the chief court. Fortunately, the Metropolitan and Provincial Law Association had entrusted Mr. Murray with a vigorous petition to the House of Commons, against the repeal of the advocacy clause, and some members of the House were prepared to do battle if occasion required. The explanation of the Attorney-General appears to have been considered altogether satisfactory; and the effect of the new clause, it is assumed, will be exactly what he described it. That this is a mistake, however, is clearly pointed out by Mr. Ford (Messrs. Rogerson & Ford), in a communication from him with which we have been favoured. The repeal of the section in question, says Mr. Ford, "would render it incumbent on creditors and bankrupts to instruct counsel on application for the 'Order of Discharge,' which, under the 163rd clause of the Bill, is substituted for the present 'Certificate of Conformity,' thereby greatly increasing the expense to creditors and bankrupts. The repeal of such section will deprive creditors and bankrupts of the privilege which, under that section, they at present enjoy of being heard by their solicitors on applications for certificates of conformity. Under the existing law, the Commissioners of Bankruptcy adjudicate upon bankrupts' applications for certificates; but under the 163rd clause of the Bankruptcy and Insolvency Bill, every application for an order of discharge which is opposed (and notice of opposition will undoubtedly be given in a majority of cases), is, in the London Court of Bankruptcy, to be heard and decided by the chief judge; and the commissioner who has acted in the prosecution of the bankruptcy is to attend at the hearing as assessor to the chief judge. The Attorney-General proposes that solicitors shall be only heard before commissioners and the chief judge in chambers, but deprives them and suitors of the right of audience on applications for orders of discharge when opposed; so that their privilege does not remain intact. Creditors and bankrupts must therefore incur the cost of instructions to and feeing counsel."

It is not too late yet to take action in this matter, and it is one on which the entire body of the profession should bring its strength immediately to bear.

Sir Francis Goldsmid has given notice of his intention to oppose in the House of Commons Lord St. Leonards' Bill on Constructive Notice, and no doubt he will be supported in his opposition by Mr. Malins, who on a former occasion, when the sole clause contained in this Bill was substantially included in Lord St. Leonards' Law of Property Bill, 1858, successfully opposed the enactment of that clause. We have already proved beyond question, that the Bill, if passed as it now stands, so far from abolishing the equitable doctrine of notice, although in terms professing to do so, would, in truth, declare by statutory enactment, what is now the doctrine, and that it would make such declaration in inapt words, and after a most illogical fashion. The true meaning of the Bill, put into proper language, is as follows:—

"The validity of any purchase shall not be impeached by any notice to the purchaser, unless in the opinion of the Court he in the matter of the purchase shall have been guilty of fraud or shall have been wilfully negligent."

But the proposition contained in these words, is, in fact, the present doctrine of the courts of equity, and we are unable to discover any advantage that can be derived from embodying in an Act of Parliament what has been so well defined by judges, and has heretofore received such ample illustration.

Our attention has been called to a circular addressed to country solicitors, on behalf of some anonymous person—a London address, however, and an ostensible name being given as some guarantee of the genuineness of the document. For the edification of our readers we print this curious advertisement, omitting, for obvious reasons, the reference and address which it contains.

"A solicitor, practising in the immediate vicinity of the public offices, has made arrangements for the transaction of a particular branch of agency business, comprising the filing of documents, making searches, stamping deeds, &c., &c. upon such terms as he trusts will meet with the approbation of the profession. On the other side will be found examples of the charges alluded to, and which may be taken as a specimen of those generally adopted. It is hoped this will not be construed as an endeavour to divert from the ordinary channels any of the more legitimate business of the London agent. The idea has originated in the frequent complaint of country practitioners of the want of a *responsible* medium for the transaction of the minor matters of business, without incurring expenses for the same, which are scarcely chargeable to their clients."

	s.	*d.*
Searching for judgments, crown debts, and annuities, including letters	3	4
Filing certificates of acknowledgment, including the attendance afterwards for the office copy, and including letters	3	4
Filing bills of sale and all similar documents, where one attendance only requisite, including letters	2	6
Inrolling deeds, and afterwards obtaining the same enrolled, including letters	3	
Inserting advertisements in Gazette, or other papers, including letters	2	
Stamping deeds, &c	3	4

We have generally abstained from incumbering our columns with the advertisements of sham lawyers, as we always deemed that a contrary course—except where it is required for some special reasons—is worse than useless. Nothing is easier than to pick up such productions, except to reiterate the same vapid common-places about them. None of our readers, however, require any evidence as to the abundance of impostors who seek, in

the guise of "Cheap Jacks," to entrap the unwary; nor do lawyers need to be told, week after week, what great evils result from the practice of these fellows. If, indeed, the unprofessional press could be induced to take up the subject, such advocacy might be expected to produce some good; but no advantage that we can see is likely to accrue from the increased publicity which is given to these fraudulent advertisements in a legal journal, to the comments of which on such a subject any layman who happens to read them will probably attribute not much weight. We have departed from our usual rule on the present occasion, because the question is one which is to be decided by lawyers themselves; and is one in which provincial solicitors are quite as much interested as their metropolitan brethren. We believe that the present charge allowed upon taxation to a country solicitor for searching for judgments, &c., is £1 6*s.* 8*d.*, of which the regular agency charge is 13*s.* 4*d.*; but if the latter is reduced to 3*s.* 4*d.*, or if, in fact, a solicitor sometimes pays but that amount, is it not most likely that in such instances he would be allowed on taxation only the sum of 6*s.* 8*d.* instead of £1 6*s.* 8*d.* as at present? The same observation applies to others of the items mentioned in this circular. The state of transition in which the law has been for some years past, and many of the alterations which have been made in it, have no doubt had the immediate effect of reducing the business, or, at all events, the profits of the legal profession. It has also lost much by the encroachments of so-called agents and sham practitioners; but we are satisfied that much worse results would follow from disunion and disloyalty in the profession itself; and repudiating most strongly as we do the allegation that we are more devoted to metropolitan than to provincial interests—which has been persistently made in the desperate hope of propping up an effete legal contemporary—we have no hesitation in saying that nothing but general damage can be the result of the patronage by country solicitors of such scheming and anonymous touters as the author of the circular which we have given above.

A curious miscarriage of justice took place at York assizes last week, under the following circumstances. A man named Hudson, holding a respectable position in life as a woolstapler, at Bradford, Yorkshire, was indicted for perjury committed before the registrar of the Court of Bankruptcy at Leeds. As the prisoner had been, until very recently, a member of the Bradford town council the case excited considerable interest. Of course it became necessary to prove that the oath had been duly taken before the registrar, but all that the prosecution could prove was that it had been taken "before an elderly gentleman without a wig," whereupon the case ignominiously broke down, and the prisoner was acquitted.

Now if the oath was not duly administered by the registrar, it is clear that the business of the Court of Bankruptcy at Leeds is conducted in a slovenly fashion; whereas if it was so administered, and evidence could have been procured of that fact, the case for the prosecution was badly got up. We are informed, however, that the prisoner was duly sworn in the presence of the registrar, that the examination was properly conducted before him, and moreover that abundant evidence of these facts was easily procurable. If this be so, the fault rests with those who conducted the prosecution, or rather with the Treasury, which doles out such miserable allowances to prosecuting attorneys that they are totally unable to do that justice to their cases which might reasonably be expected from them under a more liberal scale of payment. In an important prosecution like the one to which we refer, it would surely not be unreasonable that the attorney should have the assistance of counsel in advising upon the evidence before the case is launched in court. If, however, he procured such assistance he must have done so out of his own pocket. In fact the fees allowed to him for preparing the brief and attending at the assizes are so ridiculously small that he cannot afford to give in return for them that labour and skill without the exercise of which justice must often be defeated. The consequences of this state of things is most lamentable. Either Hudson was guilty of perjury, or he was not. If he was guilty, a malefactor of very deep dye has escaped punishment; whereas if he was innocent he has been deprived of that opportunity of being tried and acquitted on the merits of the case, without which his acquittal, owing to a mere formal defect in the evidence, can be of little value to an honest man. At the same assizes, Mr. Justice Keating proceeded to sentence on Monday morning a batch of prisoners who had pleaded guilty on Saturday. On the first prisoner being put up his lordship expressed a wish to see the prosecutor with a view to asking some questions, the answers to which might have a bearing on the sentence. Neither attorney, nor prosecutor, nor witnesses, were present. They had all gone home on Saturday night. The same wish was expressed and the same answer returned in another case, whereupon his lordship observed that although he was a great enemy to unnecessary expense, he thought it highly desirable that where the prisoners pleaded guilty, cases should not be considered as concluded until the sentences were passed, as by the absence of all persons connected with the prosecution he was unable to give judgments entirely satisfactory to his own mind for want of adequate information. The sudden flight of prosecutors and witnesses from York is, however, easily accounted for, when we remember that they must live, eat, and sleep there for 24 hours at the rate of 6s., or at all events must pay anything beyond that sum out of their own funds. An instance of the extraordinary tenacity with which the Treasury holds the purse strings was afforded at the same assizes in the case of *Reg.* v. *Nightingale & Another*. The prisoners were indicted for obtaining money by false pretences, and also for a conspiracy to cheat. On the first charge the prosecution failed, but succeeded in obtaining a conviction on the second. The taxing officer thereupon refused to allow the costs, the prosecutor not being entitled to the costs of an indictment for a conspiracy to cheat, and the charge of false pretences having failed. The learned judge, however, on the circumstances being mentioned to him, ordered the costs of the prosecution to be allowed, on the ground that the prosecutor and witnesses had been bound over before the justices to prosecute and give evidence on a charge of false pretences, and that an indictment for that offence had been duly preferred. We fear from what has been recently said by Sir G. C. Lewis that there is little hope of any early amendment of the present scale of costs; but we shall certainly continue to fulful that duty which we owe not less to the public than to the profession, by showing the great evils of which the system is the parent.

TAXATION OF SUITORS.—No. VI.

COURTS OF JUSTICE AS BANKERS.

Now, that a royal commission has been appointed to investigate and report upon one of the most important branches of the subject touched upon in these papers, we intend to conclude the series with the present article. In the earlier articles we considered several questions involving both principles and details relating to the imposition of court fees, or, in other words, legal taxes. It is obvious, however, that such fertile topics as legal taxation, its incidence, mode of collection, control and supervision, require for their adequate treatment greater space than we can afford. The same observation applies to the questions glanced at in our

later articles. Apart from the several subjects to which we have just referred, but very closely connected with them, are the purely financial and administrative questions as to the mode of levying law taxes (whether by fees or stamps) and the custody, management and distribution of the money so received, as well as the custody and investment of the very large funds which in the course of litigation are confided to, and become subject to the orders of, our judicial tribunals. The commission which has just been issued by the Crown is confined wholly to the latter branch of the general subject. The commissioners are merely to inquire into the mode of doing business in the office of the Accountant-General of the Court of Chancery, and into the custody and management of its funds. It will not be part of their duty to institute any inquiries into the custody or management of the funds committed to the care of the Common Law Courts, or rather to the care of the private bankers of the masters of those courts. In our last article we showed cause, we think unanswerably, why the scope of the Commission should have been extended so as to embrace the Courts of Common Law; and we promised to furnish some information as to the banking arrangements of the Court of Bankruptcy, the Court for the relief of Insolvent Debtors, and the County Courts. We now proceed to redeem that promise; and, first,

As to the Bankruptcy Court:

All monies arising from each bankrupt's estate are paid to the official assignee of such estate. Each official assignee is permitted to retain out of the several estates whereof he is assignee, a sum not exceeding £5,000, and is required to pay the residue of the monies in his hands monthly into the Bank of England to the credit of the Accountant in Bankruptcy. The amount so paid in during the year 1860 was £868,000, and after deducting from the amount so from time to time paid in, the amount paid out to the creditors, there remained, on the 31st day of December 1860, £1,436,241 stock, invested on the bankruptcy fund account; the interest whereof is appropriated towards defraying the salaries of the officers of the court and other expenses connected therewith. In addition to the above money there was also paid into the Bank of England, to the Chief Registrar's account, during 1860, the sum of £73,382 by the official assignees, and £16,939 by the Commissioners of Inland Revenue, which were appropriated in like manner.

The return of the Accountant in Bankruptcy made to Parliament on the 1st March, 1861, shews that the following were the net balances on 1st January, 1860:—

1 General Account of Bankrupt's Estates.	2 Bankruptcy Fund Account.	3 Unclaimed Dividend Account.	4 Chief Registrars Account.
£ s. d.	£ s. d.	£ s. d.	£ s. d.
17,691 7 11 Stock.	1,436,241 6 3 Stock.	258 11 9 Cash.	17,641 7 11 Cash.
88,100 0 0 Exchequer Bills.		42,150 9 1 Stock.	128,745 13 1 Stock.
88,102 7 7 Cash.			

This return was issued on the same day as the Chancery Accountant-General's return as to the Suitor's Funds for 1860, but does not give even so much information as that imperfect account; indeed, the different accounts kept in bankruptcy appear to be somewhat mystified; and they would no doubt be clearer after they had gone through the filtering of a Royal commission.

As between the Accountant in Bankruptcy and the Bank of England, the latter keep with the former a simple debtor and creditor account, as with any ordinary customer; and at the accountant's office in the Bankruptcy Court a debtor and creditor account is kept of each bankrupt's estate. When a dividend is declared on a bankrupt's estate, an order authorizing the same is made by the Commissioner, which is annexed to a list prepared by the official assignee, showing the amount payable to each creditor. This order and list are sent to the Accountant in Bankruptcy who issues to each creditor a cheque for his dividend, which is paid in the same office by one of the clerks from the Bank of England, who attends there for the purpose.

The total amount paid into the Bank of England in respect of bankrupts' estates in 1860, was about one million, and the total amount paid out was about the same, and the remuneration paid to the Bank of England was for that year £2,291, exclusive of the profits arising from the balance on the accountant's account at the Bank of England, which on the 1st day of January, 1861, amounted to £106,002 cash.

As to the Insolvent Court:

As this Court will become absorbed in the Court of Bankruptcy on the passing of the Bankruptcy Act, now before Parliament, we have not investigated the existing mode of transacting the financial business of this Court. No return appears to have been made to Parliament during the present session as to the funds arising from business in that Court.

As to the County Courts:

All monies paid into these courts by the suitors, as well as the fees of court collected from the suitors, are paid in cash to the registrars of the different courts, whose accounts are quarterly, or oftener, audited and settled by the treasurers of these courts. They are paid the balance of the various monies received by the Clerks, after allowing the amounts retained and paid by them for the salaries of themselves and the high bailiffs, and also paid to the suitors, and after permitting them to retain sufficient for the current expenditure of the court. The treasurers render their accounts annually to the audit office, where they are examined and audited, and such portion of any surplus in their hands as the Commissioners of the Treasury may direct, is paid to the Paymaster-General. It appears by the judicial statistics for 1859, that the amount of the judgments obtained by plaintiffs in that year was £851,732; and that the fees on proceedings paid by the suitors during that year was £215,623. The treasurer, registrar, and high bailiff, give security for such sum as the Treasury may order, for the due accounting for, and payment of, all monies received by them. The amount paid in 1860 to the treasurers for their salaries, exclusive of travelling expenses was £20,000, the whole whereof it is believed might be saved if the fees were collected by stamps, as in the Court of Probate, and the produce paid into the Exchequer; and if the amount paid into court by the suitors were, instead of being paid to the registrars, paid into one of the money-order-offices attached to the post-office, a security more efficient than the present would thereby be provided, and the services of the treasurers might be wholly dispensed with, and a saving to the public effected of £20,000 a year; but if the very numerous and low amount of the fees in these courts should render the introduction of the system of stamps for collecting the fees inexpedient, or the adoption of the money order system unadvisable, we should hope that the authorities at the Treasury might suggest and establish some system of audit of the registrar's accounts more economical than the present, and equally as effective, and so admit of dispensing with the services of the treasurers, and thereby effect a saving of at least £20,000 a year.

We have now touched upon the financial statistics and arrangements of all the leading courts of this country. At some future, but not distant, time, we hope to be in a position to give information of the same kind about the courts of Ireland and Scotland, as there must be considerable advantage in being able to compare the different systems in the three kingdoms. At all events, unmixed good will result from the revelations which are to be made as to the great variety of methods adopted for the custody and management of court funds, not only as between one kingdom and

another, but as between all the different courts of the same kingdom.

The entire subject is one in which solicitors, as a class above all others are most deeply interested. We think we have shown that good management will enable very great reductions to be made in the amount of court fees. This would be directly beneficial to the suitor, and both directly and indirectly highly serviceable to the profession; while neither has any kind of advantage from the present system of mismanagement. It is, therefore, with pleasure that we acknowledge the very valuable services in reference to this question of the Metropolitan and Provincial Law Association. Since 1848 that body has laboured most usefully on the subject of legal finance, as will be seen in the memorial to the Royal Commissioners which will be found elsewhere in our columns. We earnestly invite the attention of the country solicitors to the general subject of law taxes, and particularly to that phase of it which comes most frequently under their observation in the shape of court fees.

THE REPEAL OF THE TWENTY-NINTH CANON.

An attempt has been recently made by the Convocation of Canterbury to repeal one of the Canons of 1603. Their first step was to petition the Queen, stating that they were desirous that the 29th Canon should be altered or amended, and praying for her royal licence to "make, promulge, and execute" such altered and amended Canon. Upon this petition the licence of the Crown was duly granted, with the proviso that the Canon so to be altered or amended should not be contrary or repugnant "to the doctrines, order, and ceremonies of the Church of England, already established;" and provided also that the Canon should not be of any force, effect, or validity in the law, but only so much thereof, and after such time, as the Queen, under the great seal, should approve and confirm.

The licence having been obtained, it still remained a question whether the proposed alteration, when made, would be of any legal force; the doubt arising not upon the general powers of Convocation itself, but springing out of the particular nature of the desired amendment. Legal opinion was taken; and the points submitted to counsel were twofold: first, whether the portion of the Canon which enacts that no parent shall be admitted to answer as godfather for his own child is *declaratory of the ancient usage and law of the Church of England*; and, second, whether the alteration or repeal when sanctioned by her Majesty, would relieve members of the Church of England from the obligation in regard to sponsors now laid upon them. The opinion of Mr. Archibald Stephens was given separately in November last. In answer to the first question, he considered the prohibitory part of the enactment in the 29th Canon was (using the language of Lord Hardwicke in *Middleton* v. *Crofts*, 2 Atk. 650) declaratory of the ancient usage and law of the Church of England, received and allowed here, which in that respect and by virtue of such ancient allowance, will bind the laity, and much more the clergy. The *dictum* of Lord Hardwicke is, to the minds of lawyers, an authority in itself, and requires no support; but, in answer to arguments which may be brought forward to disturb that *dictum*, Mr. Stephen prefaces his conclusion with a series of elaborate historical and legal propositions, of which it is impossible to give more than the most general indication here. He states that as early as in the *fourth* century it was an established custom that a person different from the parent should act as a sponsor in baptism, and that in the sixth century the tenet of a *spiritual* relationship resulting from the office was found existing in the Church. In Britain, in the seventh century, laws were promulgated forbidding marriage between baptized persons and their sponsors, on the ground of this doctrine of spiritual affinity, and the prohibition was repealed in various forms, and by different authorities for many succeeding centuries. Finally, it is shown that certain of the reformers, and of the bishops since the reformation, designate the enactment of the Canon as "the ancient custom of the Church." The reply to the second question was as follows:—Mr. Stephen concludes: "Unless an Act of Parliament be obtained, the Convocation of Canterbury cannot alter any of the ancient customs or laws of the realm, by making or putting in execution a new Canon permitting parents to be sponsors for their children. The mere repeal of the 29th Canon by the Convocation of Canterbury, notwithstanding the assent of the Queen, would not release the clergy and laity of that province from the obligation imposed on them by virtue of the ancient custom or law in respect of sponsors." The reasons are mainly twofold; first, that by the Act of Submission (the 25 Hen. 8, c. 19) Convocation is prohibited from enacting any canons that would be *contrary to the customs or laws* of England. If, therefore, the disability of parents to be sponsors is an *ancient custom* of the Church, as contended for above, it is plain that no power to enact a Canon releasing parents from such disability exists in Convocation. Another reason for the above conclusion—an argument which is commonly relied upon as being founded on more modern authority—is this. The rubric is confirmed by the Act of Uniformity, and is in a measure embodied into the statute law. The language in the rubric with regard to sponsorship in baptism is not explicit; but it clearly marks a distinction between parents and sponsors, and Mr. Stephen argues with great weight, and with abundant illustrations, that upon the construction of the rubric, no other conclusion can be drawn than that the words "godfather" and "godmother," in their legal acceptation, exclude the natural parents. Collateral questions affecting the relations between the Churches of England and Ireland, are also discussed; but they have little bearing on the argument.

The next step taken was to submit the same questions, along with the above highly elaborated opinion, to Sir Fitzroy Kelly, Sir Hugh Cairns, and Mr. Richard Jebb. In a few lines, the joint opinion of these three learned persons confirms the former, and states their view to be that, having regard to the Uniformity Act, the state of the Canon Law, and the ancient usage and law of the Church of England, "any alteration or repeal of the 27th canon, such as is proposed by the Convocation of Canterbury, would not, if sanctioned by her Majesty, have the effect of relieving the members of the Church, lay or clerical, in the province of Canterbury, from the obligation which they think now exists, that a child shall be presented for baptism by sponsors other than its parents."

A party in the Church which looks unfavourably upon what is called "synodical action," takes its stand upon this opinion, and, carrying the matter a step further, asserts that an attempt, made on the part of the Convocation, to induce others to commit an act which is contrary to law, must be unlawful in itself, as well as void and ineffectual.

It is obvious that the view taken by counsel was opposed to the wishes of the clergy assembled in Convocation; and it is, therefore, no matter of surprise to find that they proceeded to act in opposition to the opinion they had obtained. On the 27th of February, the Upper House re-enacted a Canon which varied the existing one by the omission from the title of the words "fathers not to be godfathers in baptism;" and from the body of the Canon the words "No parent shall be urged to be present nor be admitted to answer as godfather for his own child." The speakers who touched upon the legal question were mainly the Bishops of Oxford and London. The contention of the Bishop of Oxford, who submitted the alteration to the House, was to this effect. Upon the question as to the ancient practice of the Church in the first four centuries, the

Bishop admits Mr. Stephen's authority to be a fair one, showing that in the year 400 it was an established custom that a person different from the parents should act as sponsor for a child; but he cites, also, St. Augustine as an authority to prove the ancient custom of the Church to be, that parents should themselves come with the child, and be accompanied by other persons, friends, who were to supply or answer the whole of the service which the Church committed to their charge. The Bishop thus skilfully introduces the idea that presence of parents was in ancient times the important, primary, and necessary feature in baptism, and that of sponsors only subsidiary. This prepares the way for what follows. He deals with the customary law of England thus. He does not deny the custom of the country to have been that persons other than parents should be sponsors; but he affirms that the doctrine sprung out of the Romish dogma of "spiritual affinity" above alluded to. With that principle, argues the Bishop, the English custom rose, and with that it must fall. He then proceeds to say that a statute of the 32 Hen. 8, c. 38: "for marriages to stand, notwithstanding pre-contracts," lays it down in the preamble and enacting part (we cite here from a report in the *Guardian*) that the whole notion of spiritual affinity was the invention of the Pope, invented partly from his vanity, and partly from his love of lucre; and that the statute enacts that this principle and all the statutes founded upon it, should have no force or effect in this realm. A more remarkable reading than this of an Act of Parliament was probably never given. We subjoin the only words which seem in the least degree to touch on the subject, and ask any reader to discover in them, if he can, any reference, express or implied, to the doctrine of "spiritual" affinity as between baptized persons and their sponsors. 32 Hen. 8, c. 38: "An Act for Marriages to stand, notwithstanding Pre-contracts. Whereas, heretofore the usurped power of the Bishop of Rome hath always entangled and troubled the meer jurisdiction and regal power of this realm of England, &c. . . .

"Further also, by reason of other prohibitions than God's law admitteth for their lucre by that Court invented, the dispensations for which they always reserved to themselves, as in kindred or affinity between cousin germanes, and so to fourth and fourth degree, carnal knowledge of any of the same kin, or affinity before in such outward degrees, which else were lawful and be not prohibited by God's law." . . .

The statute then enacts: "That marriage contract and solemnized in the face of the Church, and consummate, &c, shall be lawful, &c., notwithstanning any pre-contracts of matrimony, not consummate with bodily knowledge, and that no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degree."

The doctrine of "spiritual affinity" may possibly be no longer part of the teaching of the English Church, but that it was repealed by the above Act of Parliament is, probably, what no lawyer will be found to admit. Such, however, was the Bishop of Oxford's argument. He felt the necessity of proving that the practice of having sponsors other than parents in baptism is not one of the ancient customs of the realm of England, and these are the steps by which he attempted to establish the proof. There was still another difficulty to be met, which was this. If the doctrine of spiritual affinity were thus abolished, how comes it that a canon, grounded, according to the Bishop of Oxford's argument, on the principle of spiritual affinity, still exists? The Bishop answers, it was preserved for a totally different purpose. There was an erroneous doctrine abroad that the elect parent must present the child for baptism as an elect child, and no one but the parents could properly covenant for it. It was to bear witness against this error that the Canon was preserved, even after the Reformation.

The Bishop of London treated the matter in a different way. He said, "Our friend the Prolocutor wishes to drive us into a dilemma, and his dilemma appears to be this. 'Either the statute law of the land allows parents to be godfathers at present, or it forbids it; and you say parents may become sponsors. Your saying so will not give parents any legal power to become sponsors; and if the statute law permits them, what is the use of making any alteration in the Canon?' I think that the whole of the argument, and, like all dilemmas, it is very liable to be retorted, and it may be retorted in this way. Either the statute law of the land allows us to do this or forbids it. If it allows us to do it, we had better certainly remove from our Canons something that prohibits and which is not entitled to be there. If it prohibits it, we are, at all events, not doing anything contrary to the law by, under her Majesty's sanction, considering what is the best thing to do in order that the matter may be finally laid before Parliament for further alteration."

In this spirit the rest of the discussion seems to have followed, for the legal difficulty was not combated by any succeeding speaker.

In the Lower House of Convocation a long discussion took place, and the amended Canon was finally returned to the Upper House, with a request that certain additions should be made to it respecting the answers of godfathers and godmothers in the baptismal service, and respecting the necessity of sponsors having been communicants. But the force of the legal objection, which is certainly supported by high authority, and which goes to the very root of the whole proceeding, seems to have been little felt, or, if felt, to have been disregarded.

We are compelled to hold over until the end of next week an article upon the new law examination at the Law Institution; and also other articles.

The Courts, Appointments, Promotions, Vacancies, &c.

VICE CHANCELLOR'S COURT.

(Vice-Chancellor Stuart.)

March 18.—*Accommodation for the Vice-Chancellors in Lincoln's-inn.*—The Vice-Chancellor, in the course of the hearing a cause, holding up as "an exhibit" a volume, the binding of which was so much destroyed that the back of it was off, and addressing Mr. Malins, "as a legislator," said that the room at his chambers in which his books were kept and in which he sat was so low and damp that his library was being destroyed. As a consolation, he had been told that he could purchase the whole of Vesey, jun.'s, reports for 27s., which, by the way, was not a bad test of the low estimation in which that valuable repertory of law was held by the present generation of lawyers. His Honour added that he constantly received written complaints from solicitors of the bad accommodation which was provided for them in his chambers.

Mr. *Malins* said that he would take an early opportunity of bringing the attention of that branch of the Legislature to which he belonged to the subject of his Honour's complaint. If the society of Lincoln's-inn had been allowed to take the course which it proposed in this matter, good accommodation would by this time have been provided in Lincoln's-inn for the Equity Courts and Vice-Chancellor's chambers. It had been said that the accommodation required would be in existence in another year by the completion of the scheme for the centralization of the law and equity courts at the back of Carey-street. He, however, thought that scheme would not be completed for at least seven years.

The Vice-Chancellor.—More likely 27 years.

HOME CIRCUIT.—Lewes.

The commission was opened in this town on Monday last by Lord Chief Justice Erle, and Mr. Justice Wightman.

NORTHERN CIRCUIT.—York.

(Before Mr. Justice Hill.)

March 16.—*Dryden* v. *Taylor*.—This was an action for negligence brought against the defendant as an attorney.

The plaintiff, it appeared, is a surgeon at Halifax, and the defendant an attorney at Bradford. The plaintiff employed the defendant to prepare for him proper securities to secure the repayment to him of a loan of £344, lent by him to a person named Mount, who became tenant of a mill belonging to the plaintiff, the money being advanced for the purpose of purchasing proper machinery for the mill. It was agreed that a bill of sale should be executed assigning all the machinery in the mill to the plaintiff as security. The bill of sale, however, was so drawn that it had reference only to the machinery then in the mill, and, also, it was not properly registered. The defendant had also at the same time drawn up an agreement to be signed by the plaintiff and Mount, whereby the plaintiff agreed to demise the machinery in the mill to Mount, he agreeing to pay for it by instalments of £10 a quarter, and to pay interest on the residue of the money advanced, on failure of any one of these quarterly payments the plaintiff to be at liberty to seize the machinery. The effect of this agreement was, so long as the quarterly payments were regularly made, to operate as a defeasance of the bill of sale. Mount getting into difficulties the bill of sale could not be enforced, other creditors seized the machinery, and the plaintiff was without remedy. For this negligence of the defendant, as an attorney, to take proper securities the present action was brought. At the suggestion of his lordship the case was referred to Mr. Bell, the clerk of assize, to say what should be done between the parties as gentlemen, and what compensation ought fairly to be made, an offer which it was said the defendant had already made.

On these terms a juror was withdrawn.

WESTERN CIRCUIT—Taunton.

The commission was opened in this town on the 19th ult., by Mr. Justices Willes.

MIDDLESEX SESSIONS.

March 18.—The March adjourned general sessions of the peace for the county of Middlesex commenced this morning at Clerkenwell, before Mr. Bodkin, the assistant-judge, Mr. Payne, deputy, Mr. Pownall, chairman of the bench, and a large number of the magistrates of the county.

The Queen has been pleased to confer the honour of knighthood upon Colley Harman Scotland, Esq., Chief Justice of Madras.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, March 15.

Charitable Uses Bill.

Lord Cranworth, in moving the second reading of this Bill, stated it was with some few exceptions similar to that introduced by his lordship last session. By the present Bill he proposed to provide that in future deeds conveying land for charitable purposes need not be indented, and to modify the provision in the Mortmain Act as to revocation or reservation for the benefit of the grantor or donor. The Bill provided that in future no deed for charitable uses should be void by reason of any specified stipulations for the donor's benefit, and also that the conveyance of a copyhold for such uses should not be vitiated for want of a deed. He proposed also to render valid the conveyance of the property by one deed and the declaration of the charity by another, if enrolled.

The Lord Chancellor said he viewed the Bill with but little satisfaction. At the same time he hoped that if it passed it would be the precursor of a great improvement in the law of mortmain among the other amendments of the law.

Lord Abinger opposed; and

Lord Wensleydale and Lord Chelmsford supported the Bill.

The Bill was read a second time.

Admiralty Court Jurisdiction Bill.

This Bill was read a third time and passed.

Monday, March 18.

Lunacy Regulation Bill.

The Lord Chancellor moved the second reading of this Bill. It was proposed by the Bill that if it were made out to the satisfaction of the Lord Chancellor, that those persons who had incomes under a fixed sum were lunatic, and if after notice they made no objection, the Lord Chancellor should have the power to dispose of the property as if a commission had issued, and they had been regularly found insane. It was also proposed to make the registrar in lunacy a permanent officer.

The Earl of Shaftesbury concurred in the measure.

The Bill was read a second time.

Thursday, March 21.

Law of Foreign Countries Bill.

This Bill was read a second time.

Charitable Uses Bill.

The report of amendments on this Bill was received.

HOUSE OF COMMONS.

Friday, March 15.

Allowances to Prosecutors and Witnesses.

Colonel Smyth asked the Home Secretary whether he was prepared to alter the scale of allowances to prosecutors and witnesses at assizes and quarter sessions.

Sir G. C. Lewis said that though the scale of allowances had been complained of by some counties, the complaint was not at all general, and under the circumstances he did not feel justified in recommending a general increase in them. But he was prepared to bring in a Bill to enable any county that thought the allowance insufficient to make an addition to them out of the county rates.

Funds in the Court of Chancery.

Sir H. Cairns asked for an explanation on the subject of the funds of the Court of Chancery which amounted to nearly £2,000,000. The Hon. Member, after referring to the recent commission for inquiring into the Accountant-General's office, and commenting upon the commissioners, said that the question was not so much who were upon the commission as who were not upon it. This was the first time when a commission had been appointed to inquire into the Court of Chancery that there were not placed upon it some of those who were most experienced in the working of the court, and responsible for its action—the judges in Chancery. A reason for their exclusion did present itself, which he would mention in order that it might be contradicted if it were not the true reason. Upon the former commission several of the Chancery judges, the Master of the Rolls, Lord Justice Turner, Vice-Chancellors Wood and Stuart were examined, and they all thought it was a most grave and serious matter to deal in any way with the funds of the Court of Chancery, except for the benefit of the suitors, and that it was a question deserving great consideration, and, in their minds, one involving much doubt, whether it was a legitimate course for the Chancellor of the Exchequer or any one to take the money which had always been regarded as the sole property of the suitors. All circumstances seemed to argue that the commission was intended to carry out and establish a foregone conclusion at which the Government had arrived, and in some way to connect the Treasury with the funds of the Court of Chancery. He had heard a rumour that it was the intention of the Chancellor of the Exchequer to propose that some new stock should be created, to be called Chancery stock, and that the funds of the suitors in Chancery should be required to be invested in that stock at a fixed rate of interest. He did not know whether there was any ground for that rumour, but he must say that he could conceive nothing more at variance with the legislation of the last few years than any such scheme. He should be glad to hear from the right hon. gentleman that no such scheme was in contemplation. He desired to ask what were the specific purposes which the commission was intended to work out; next, at what time the commission would commence its sittings; and, lastly, whether the Government would object to do that which had hitherto been an invariable practice, and to advise her Majesty

to add to the commission other names, and especially those of some of the judges of the Court of Chancery, who might be able and willing to give them assistance.

Monday, March 18.

Sale and Transfer of Lands.

The Attorney-General (in answer to Mr. Hopwood) said he hoped to bring in a Bill on this subject shortly before Easter.

Bankruptcy and Insolvency Bill.

The House resolved itself into committee on this Bill.

Clause 197 was agreed to.

Clause 198 was amended so as to run that "a majority in numbers including three-fourths in value" should approve of any trust deed.

Clauses 199 to 206 were also agreed to.

On clause 207 empowering the creditors of deceased debtors to petition the Court for the distribution of the estate of the deceased,

Sir H. Cairns said the committee had arrived at what were called the "dead man's clauses." And after stating his reasons why these clauses should be omitted from the Bill, hoped the Attorney-General would see the expediency of omitting them. If not, he should when the proper time arrived deem it to be his duty to take with respect to them the sense of the committee.

These clauses were also opposed by Mr. Malins, Mr. Rolt and other members. After some discussion the objections were waived upon the understanding that the question whether the clauses should be retained or omitted, and should be determined on the report, the restriction of their operation to debtors who were traders at the time of their death being expunged.

On schedule G. being read, which comprises a list of the Acts and parts of Acts proposed to be repealed by the Bill,

Mr. Moffatt, observed that among the enactments proposed to be repealed was the 247th section of the Consolidated Bankrupt Act, which empowers every solicitor duly admitted as a solicitor of the Court of Bankruptcy to appear and plead in any proceedings in the court without being required to employ counsel. He wished to ask if the hon. and learned gentleman was in a position to give the committee a statement of his reasons for repealing this clause. The effect of the repeal would be to withdraw from solicitors the right which they now possessed of practising as advocates in a class of business with which they were even more competent to deal than the gentlemen of the long robe.

Mr. Murray said that it was proposed by this schedule wholly to repeal the 247th section. The hon. and learned gentleman had not given any notice of his intentions in this respect; but he (Mr. Murray) held in his hand a petition on the subject from the chairman and members of the Metropolitan and Provincial Law Association.

The Attorney-General interposing said: If the hon. and learned member will permit me, perhaps I had better state to the committee the course I am about to take, and that will relieve the committee from the necessity of hearing the petition read. It is not in the least my intention to deprive solicitors of any powers which they now possess, or of any privileges which they have always held. I mean as far as the present Bill is concerned, that those powers and privileges shall remain intact. But I have been obliged to make an alteration in the law in consequence of the establishment of a chief court in bankruptcy, to be presided over by a chief judge, and I am sure that solicitors would never for one moment propose to practise there. The following is the new clause which I propose to substitute for that which is to be repealed. "Every solicitor of the High Court of Chancery, now or hereafter admitted as a solicitor of the Court of Bankruptcy, may practise as such solicitor in the said court, or in any district court, and as to all matters before the Commissioners or in chambers may appear and plead, without being required to employ counsel; and in case any person not being such solicitor shall practise in the court as a solicitor, he shall be deemed guilty of a contempt of court, and be liable to all the penalties incident thereto."

Mr. Murray expressed himself satisfied. He thought that clause would meet every possible requirement on the part of the solicitors.

Most of the other clauses in the Bill were agreed to, and the committee then considered certain new clauses relating to salaries to official assignees and others, and the Bill then passed through committee.

Constructive Notice Amendment Bill.

This Bill was read a second time.

Tuesday, March 19.

Recovery of Debts Bill.

This Bill was read a second time.

Wednesday, March 20.

Public Charities.

Mr. Hardcastle, in moving the second reading of the Public Charities Bill, stated that its main object was to provide a more convenient and less expensive mode of appointing trustees of public charities. Instead of the present methods, the Bill enacted that when any vacancy occurred in the trust of a charity the vacancy shall be filled up by election; a certificate of that election shall be drawn up by the chairman, and attested by two witnesses within three months; this certificate shall be presented to the judge of the county court of the district, and within one month thereafter the judge shall give a certificate as a confirmation of the election. Having noticed some of the inconveniences of the present modes of appointment, and explained the minor provisions of the Bill, he moved the second reading.

The Attorney-General said that great care was requisite in dealing with a subject of this kind, or they might augment inconveniences instead of diminishing them. Giving every credit to the hon. gentleman for his intention in proposing this measure, he could not agree with any one provision in it. In the first place, in cases where a trustee might be elected, the Bill provided that the certificate of such election should be drawn up by the chairman of the meeting, who was required to swear to all the particulars contained in it. He would be a very bold chairman who would do that. Then the certificate of election was to be lodged with the judge of the county court, who was thereon to issue another certificate in confirmation of the election; this certificate, when signed by the judge, and sealed with the seal of the Court and duly registered, was, by the Bill, to be thenceforth received, in the absence of any evidence to the contrary, as full and conclusive evidence of the truth of all the facts, matters, and things respecting the charity contained in such certificate. Now, all facts regarding the title or the transmission of the title of the property of a trust required the utmost caution; and he thought the existing law had amply provided against such difficulties by the appointment of official trustees for public charities; and that provision of the existing law embraced every description of charity. The machinery of that law was of the simplest kind; the official trustees were made the legal *custodes* of the property of a trust, and the necessity for a continual conveyance and reconveyance of the estate was obviated. By investing the estate of a charity in these official trustees the evils complained of were avoided. But by the present Bill a little knot of men might come together and elect a person quite unqualified as a trustee, and the judge of the county court, who could have no information on the matter, except from the declaration of the chairman of the meeting, must confirm the election; and the certificate of the judge, who could know nothing, would become, not only the evidence of the qualification of the trustee, but of the ownership of the trust property. The present law did not require this kind of interference; he, therefore, could not consent to the second reading of this Bill.

Mr. Hardcastle, in consequence of the opposition of the Attorney-General, withdrew the motion.

Mr. Henley felt obliged to the Attorney-General for the clear manner in which he had pointed out the objection to the measure.

Stipendiary Magistrates.

Mr. Sheridan moved for leave to bring in a Bill to enable cities, towns, and boroughs of 25,000 inhabitants and upwards to facilitate the appointment of stipendiary magistrates.

Leave given and Bill read a first time.

Thursday, March 21.

Bankruptcy and Insolvency Bill (Stamp Duty).

The House resolved into committee on this subject.

The Attorney-General moved the following resolution:—

"That, in addition to the ordinary stamp duty, there shall be charged an *ad valorem* stamp duty of 7*s.* upon every £100 of property comprised in every trust or other deed or instrument required to be registered by any Act of the present session for amending the law relating to bankruptcy and insolvency in England."

The resolution was, after some discussion, agreed to.

The House then resumed the consideration of the Bill as amended, and

An important amendment was made in the 82nd clause to the effect that before an adjudication in bankruptcy can be made against a non-trader debtor, he shall be served personally with a copy of the petition for adjudication unless the Court shall be satisfied that every reasonable effort had been made to effect personal service without avail when substituted service may be made under certain conditions.

On the motion of Mr. Malins the 101st clause was struck out.

Clauses 207 to 218 (the Dead Men's Clauses) were, on the motion of Sir H. Cairns, struck out.

On the motion of the Attorney-General the Bill was re-committed, when further amendments were made and ordered to be reported.

Admiralty Jurisdiction Bill.

This Bill was read a second time.

Friday, March 22.

Bankruptcy and Insolvency Bill (Stamp Duty).

The report of the committee on the resolution relative to the stamp duty was brought up.

After some observations from Mr. Crawford,

The Attorney-General said he would move in committee the substitution of 5*s.* for 7*s.* upon every £100, as the latter amount was introduced by mistake.

The report was then agreed to.

Bankruptcy and Insolvency Bill.

The house then went into committee on this Bill, and it was ordered to be printed and read a third time on the 8th proximo.

The house then resumed.

PENDING MEASURES OF LEGISLATION.

Charitable Uses Bill.

This Bill has been amended in committee in the House of Lords. Its provisions are as follows:—

1. No future deed or assurance for charitable uses to be void by reason of not being indented, or of specified stipulations for donor's benefit, or (as to copyholds) for want of deed.

2. Where charitable uses of any future deed or assurance are declared by any separate or other deed, the enrolment of such other deed to be requisite, and such deed to be void unless enrolled within six months.

3. No past deed or assurance for charitable uses upon valuable consideration shall be void if enrolled in chancery within twelve calendar months after passing of Act.

4. Where charitable uses of any past deed or assurance upon valuable consideration not enrolled are declared by any other deed, the enrolment of such other deed shall be sufficient. Where neither is enrolled, the enrolment of such other deed to be requisite, and if not enrolled within twelve calendar months after passing of this Act to be void.

5. Act not to invalidate certain deeds, nor to extend to deeds already avoided, or to pending suits. No deed, &c., thirty years old, nor any past deed where acknowledgment by the grantor cannot be obtained within twelve calendar months after the passing of the Act shall require acknowledgment prior to enrolment.

6. Act not to extend to Scotland or Ireland; nor to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster.

Recent Decisions.

EQUITY.

Executor's Right to Indemnity in respect of Testator's Leaseholds.

Bunting v. *Marriott*, M. R., 9 W. R. 264; *Smith* v. *Smith*, V. C. K., 9 W. R. 406.

In the case of *Garratt* v. *Lancefield* (2 Jur. N. S. 177), Vice-Chancellor Kindersley laid down several rules as to the right of an executor to indemnity in respect of his liability to the rent and covenants of leases held by the testator. He said that this being a continuing liability, the executor was entitled to indemnity out of the whole estate, whether the leaseholds had been specifically bequeathed, or formed part of the residue. If the specifically bequeathed leaseholds were themselves a sufficient indemnity, or if the specific legatee could give a sufficient indemnity, that would exonerate the rest of the property. But if the leasehold estate so specifically bequeathed was not sufficient, and the specific legatee himself would not, or could not, give sufficient indemnity, the specific bequest must be retained by way of indemnity; and if that was not sufficient, resort must be had to the general estate. But where the executor had unconditionally assented to a specific bequest of leaseholds, he had thereby deprived himself of the right of coming upon those specific leaseholds, and *à fortiori* of the right of coming upon the general estate, which could only stand behind the particular bequest. Even where the Court itself had directed parting with the property, whether by sale or by underlease, still the liability remained upon the executor, and his right to indemnity stood upon the same footing.

About a year after this case came that of *Waller* v. *Barrett*, before the Master of the Rolls (24 Beav. 413; s. c. 27 L. J., N. S., Ch. 214), in which a different view from that of Vice-Chancellor Kindersley was enunciated with great distinctness. In that case the leasehold property of the testator had been sold under an order made in the cause. The chief clerk had certified that the covenants of the purchasers, with a bond from the persons beneficially entitled to the testator's personal estate, would be a sufficient indemnity against any contingent liabilities under the covenants. The Master of the Rolls held, in the first place, upon the facts of the case before him, that it was obviously for the interest of the ground landlord to proceed by ejectment against the person in possession, rather than by action upon the covenant; and he thought, therefore, that the proposed indemnity was sufficient. He then went on to show, from the authorities, that in the case of an existing debt, the executor is perfectly exonerated if he brings all the facts before the Court, and pays away the assets under its direction, and he added, "I am at a loss to conceive on what principle a debt which may arise hereafter, but which is not now existing, is to be treated on a different footing from an existing debt." After noticing the ancient practice of obliging legatees to give security to refund in case of the discovery of further debts, and observing that the same principle governed these cases of apprehended future liabilities on covenants in leases, he said, "it is called an indemnity to the executor, but if he has brought the facts before the Court I apprehend his indemnity is complete and perfect, so far as he is concerned, as he acts under the direction of the Court." According to the Master of the Rolls, the Court acts on the same principle with respect to non-existing debts which may hereafter arise, as it would in the case of existing debts not proved. "The indemnity given is only for the sake of effecting a security, in case the Court sees a reasonable probability that a creditor may afterwards come forward who is not now able to establish his case."

In the recent case of *Smith* v. *Smith*, Vice-Chancellor Kindersley appears to yield his former opinion to that of the Master of the Rolls. "Supposing there had been no dealing with the estate, were the executors entitled to any and what indemnity?" Following previous decisions, his Honour had formerly held that executors had such right; "but he now concurred with the Master of the Rolls, that where an executor fairly represented everything to the Court, the decree directing him to deal with the property must operate as an indemnity to him." The executor, therefore, did not need a pecuniary indemnity for his own protection; and the question was, whether such an indemnity ought to be given for the benefit of the persons who might take advantage of a breach of covenant? It appeared to his Honour 'that the Court had in fact arrived at that point that the whole doctrine was set aside." But, supposing it still to subsist, a part of the doctrine was, that an executor by assenting to a specific bequest of leaseholds, lost his right to insist upon an indemnity, whether for his own benefit or for the benefit of the covenantee. Now, in the present case, the leaseholds were not specifically bequeathed, but they were given to trustees, who were also executors, upon certain trusts. His Honour held that when the executors as executors assigned to the trustees as trustees, which they had done, the effect was the same as that of assent to a specific legacy. The executors, therefore, were no longer in a position to claim indemnity; and even if

they had been, the Vice-Chancellor appeared to think that he would have been bound to reject their claim.

Such a case as that of *Waller* v. *Barrett* would now of course be governed by the Law of Property Amendment Act, 22 & 23 Vict. c. 35, s. 27, which provides that where an executor, liable as such to the covenants of a lease granted to his testator, shall have satisfied all liabilities already accrued thereunder, and shall have set apart a fund to answer any future claim in respect of any fixed sum covenanted to be laid out on the property, and shall have assigned the lease to a purchaser thereof, he shall be at liberty to distribute the residue, without appropriating any part thereof to meet any future liability under the said lease; and the executor so distributing the residue shall not, after having assigned the said lease, be personally liable in respect of any subsequent claim thereunder. But inasmuch as this enactment only extends to cases where the executor "has assigned the lease to a purchaser thereof," all cases of specific or residuary bequests of leaseholds appear to be left under the old law. In reference to such cases, the argument of the Master of the Rolls, that an executor is sufficiently indemnified if he acts under the order of the Court, is of quite as much importance now as on the day it was delivered. We understand Vice-Chancellor Kindersley now to adopt this argument, and to withdraw the opposite opinion which he had expressed in *Garratt* v. *Lancefield*. But when he goes on to say that the whole of this doctrine as to providing indemnities, whether for the benefit of the executor or of the covenantee, is set aside, we feel some doubt whether there is authority to support so broad a statement. Certainly the Master of the Rolls did not go so far in *Waller* v. *Barrett*. It is quite true that in *King* v. *Mallcott*, 9 Hare 692, Vice-Chancellor Wigram dismissed a claim by a lessor seeking to have an indemnity fund provided for him; so that it seems to come to this, that the executor, acting under the authority of the Court, does not want indemnity, and if the lessor asks for it he will not get it. Nevertheless, some attention may still be due to the words of Sir James Wigram in *Fletcher* v. *Stevenson*, 3 Hare 360:—"In considering what degree of protection is due to the absent covenantee, I am bound to consider whether the Court, taking the fund out of the hands of the executor, can do less than it would expect the executor to do, if the fund remained in his hands." If such considerations as here indicated still deserve attention, it seems premature to say that the whole doctrine founded on them has been set aside.

In the case of *Bunting* v. *Marriott* a petition was presented by residuary legatees, for the payment out of court of a fund which had, by an order dated 16th of April, 1857, been set apart to indemnify the executor in respect of his, testator's, leaseholds, which had been assigned to purchasers. The Master of the Rolls admitted that this case was within the Law of Property Amendment Act; but he refused to part with the fund without the consent of the ground landlord. Adhering to previously-expressed opinions, he said that such a fund was not set apart for the indemnity of the executor, because the order of the Court was an indemnity to him, but for the benefit of persons who might have claims on the estate; and, therefore, these persons must have notice before the fund could be parted with. His Honour "did not think that the meaning of the Act was to enable the parties in all cases like the present, where an indemnity fund had been set apart, to come and ask to have that indemnity fund paid out of court."

In the case of *Dodson* v. *Sammell* (8 W. R. 252), Vice-Chancellor Kindersley held that the Act did not apply to an indemnity fund created before the passing of the Act, nor even to a liability existing before it passed. He admitted in *Smith* v. *Smith*, that he had been wrong in thus narrowing the operation of the Act. It is remarkable that in *Dodson* v. *Sammell*, the leaseholds had not been assigned to a purchaser, but to the residuary legatee, and, therefore, the case did not come within the scope of the Act. Thus, it would seem that the decision in that case was right, although it was put on a wrong ground.

COMMON LAW.

Master and Servants Act (4 Geo. 4, c. 34)—To what Employments it applies.

Davies v. *Berwick*, Q. B., 9 W. R. 334.

This was a case for the opinion of the Court as to the validity of a conviction under 4 Geo. 4, c. 34. The 3rd section of that Act enacts, among other things, that if any "servant in husbandry, or any artificer, calico printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or other person," shall, after entering into service, neglect to fulfil his contract in that behalf, or be guilty of any other misconduct or misdemeanour in the execution thereof, he may be convicted before a magistrate and punished as the Act sets forth. In reference to this provision there are a variety of decisions in the books, as to what species of employments fall within one or other of the several classes specified as above. Thus it has been held (though, perhaps, an express decision upon that point was hardly required, the general rules for the construction of statutes being borne in mind), that the words "other person" concluding the list, must be taken to refer to some business analogous to those previously enumerated (*Ex parte Ormrod*, 1 D. & L. 825); though, in the same case, it was also held that in order to justify a committal it is sufficient if an employment and service be mentioned in the warrant such as comes under the provision, without stating under what class of employments mentioned there it came. It has also been settled that *domestic* servants are not within this Act any more than they are within a previous Act on the subject (5 Eliz. c. 4), from which they are *expressly* excluded (*Kitchen* v. *Shaw*, 6 A. & E. 729). Though, on the other hand, in one of the most recent of the cases on the Masters and Servants Act which turned upon the kinds of employment coming under the provision, it was held that a contract between a *journeyman tailor* and his employer, though a "tailor" is not mentioned in the Act, is yet within its equity (*Ex parte Gordon*, 25 L. J., M. C., 12). The main ground of that decision was, that the person convicted had contracted to work on the premises of his employer, and for him only, until the work he had undertaken was done; and it seems, perhaps, a little difficult to distinguish from this last case the present one. For here a man was engaged to work upon a farm, his duty being to keep the accounts, to weigh out food for the cattle, to lend a hand to anything, and in particular to carry out the orders of his master; and yet it was held that such employment did not come within the Act—for that, on the one hand, the person convicted was not a mere "servant in husbandry" (but rather a steward); nor, on the other, did he fulfil the duties of any of the particular kinds of "artificers" specified in the Act.

Law of Arbitration—Fixing Fee in the Award, Effect of.

In the matter of an Arbitration between Parkinson and Smith, B. C., 9 W. R. 340.

What is the effect of an award containing a direction that a specific sum of money be paid for the fees incident to the arbitration? Such is the question discussed in the present case, but with no very useful result, as far as the decision itself is concerned; for it avoids the main question, and serves chiefly to expose a curious contrariety of opinions on certain points between the authorities.

The question resolves itself into these considerations—1. Does the insertion of such a direction invalidate the award? 2. If not, does it affect the award in any other way?

As to the first of these points, it was held in *Re Combs* (4 Exch. 839), that in the absence of a specific power to that effect contained in the submission, the arbitration fees cannot form part of the award; though, in *Threlfall* v. *Fanshawe* (19 L. J., Q. B., 334), it was held, notwithstanding this ruling, that the arbitrator *might* name his costs in the award. But this last case was the decision of a single judge only sitting in the Bail Court, and is at variance with the views of the full Court in the subsequent case of *Fernley* v. *Branson* (20 L. J., Q. B., 178), where it was not only held that the ordinary practice of abstaining from naming in the award itself the precise fee which the maker of it is to receive, is the correct one; but that where one of the parties, in order to obtain possession of the award, is obliged to pay an exorbitant fee named in the award, he may recover back the excess as money had and received to his use by the arbitrator.

Moreover, in *Roberts* v. *Eberhardt* (3 C. B., N. S., 482), the latest case on the subject, the law, as laid down by the Court of Exchequer in *Re Combs*, appears to have been taken for granted by most of the judges, and is expressly recognised by several—among others, by Mr. Justice Wightman. The balance of authorities, therefore, is clearly greatly in favour of its being *improper* to name the fee in the award itself (though it may be remarked that Mr. Justice Blackburn, in *Fernley* v. *Branson*, intimated his adherence to the contrary principle, on which *Threlfall* v. *Fanshawe* was decided); but, supposing it to be improper, does the direction invalidate the rest of the award? Clearly not; according to the judgment of some of the judges in *Roberts* v. *Eberhardt* (see in particular, per Wightman, J., p. 521); and the opinion of Blackburn, J., in the present case,

commenting upon *Strutt* v. *Rogers* (7 Taunt. 212), is to the same effect.

It results, therefore, that an award is probably not invalidated by a direction therein contained concerning the arbitrator's fees; but, on the other hand, it seems that the Courts will not enforce such an award by rule in the exercise of their summary jurisdiction. They will leave the party seeking to enforce it, to his remedy by action. In the present case they contented themselves with discharging a rule *nisi*, which had been obtained to enforce the offending award—thus leaving the question of its validity or invalidity, by reason of such blemish, still, to a certain extent, an open one.

PRACTICE—SECURITY FOR COSTS—FOREIGN PLAINTIFF.

Nylander v. *Barnes*, Exch., 9 W. R. 339.

The general practice as to when a litigant will be compelled to give to the opposite party security for costs, is clear enough. If the plaintiff resides out of the jurisdiction of the court, or if a nominal plaintiff can be shown to be in extreme poverty, security will be ordered on the application of the defendant. But the courts will not interfere in this way on behalf of the *plaintiff* and make the defendant give security for the costs of the proceedings should he be unsuccessful. The question, however, which has usually arisen in these cases, is what facts are sufficient to establish that the plaintiff is "out of the jurisdiction;" for it is not every absence from the kingdom which will be a good foundation for the application. It must be shown that the circumstances of the case are such that a speedy return cannot reasonably be anticipated; and on this ground it was held in one case that a foreigner, captain of a ship, which was in the habit of plying between ports of this country could not be ordered to find security (*Nelson* v. *Ogle*, 2 Taunt. 253). It has indeed been suggested that the proper test is whether the party intends to be absent from the jurisdiction so long that he will not be ready to be apprehended at the time when execution may be taken out in the regular course of proceedings (See Lush's Pr. 2nd ed., p. 696). But in the present case (which much resembled *Nelson* v. *Ogle*, except that the ship as well as the master was foreign, which is left uncertain in the report of that case) it was decided that the plaintiff must find security on the more general ground that he was a foreigner not domiciled in this country, but domiciled rather in his ship and the foreign port to which that ship belonged. The court added some observations as to the extreme convenience of a uniform rule of practice in these and similar cases: and it may be remarked that henceforward the case of *Nelson* v. *Ogle* cannot be cited with any advantage; for though some attempt was made to reconcile it with the present decision on the ground that the ship did not appear to be a foreign one, it was replied with great force that by the then navigation laws a foreigner could not be master of a *British ship*, and that, therefore, there was every reason to presume that the ship of the plaintiff Nelson was foreign as well as himself.

Correspondence.

THE COMMON LAW CHAMBERS.

I read in your columns during last long vacation an admirably sketched scheme for the amendment of the procedure at the Common Law Chambers. Why does not the Incorporated Law Society try to carry it out? The present system is a monstrous nuisance, which ought to be abated. Nothing can be more unlike judicial tribunals than these dens, and nothing can be more removed from the dignity or decency necessary to the due administration of justice than the scenes which are commonly to be witnessed there.

A SUFFERER.

LEGAL EDUCATION.

I am a copying clerk, who has been with his master 12 years. I have not neglected any opportunity of improvement, and my master has just offered me my articles. But I do not know Greek or German, and therefore I am told I cannot avail myself of his kind offer. A young gentleman fresh from school, who knows both, is about to be articled. I know more law than he does, but I do not appear on that account to be so eligible to be admitted an attorney as that lucky youth. Is not this rather hard?

W. P. B.

The popular fallacy (as I venture to call it) of the present day in the legal world is the necessity of a classical duecation. A great many resolutely shut their eyes to the fact that hardly any articled clerks now pay a premium. The day for that is gone by. Clerks now-a-days often get a salary. Can we therefore reasonably expect a knowledge of "Xenophon's Anabasis" "Schiller's Revolt of the Netherlands" &c., as proposed by the committee of the Incorporated Law Society in their report of the 12th February, as to which the opinion of the members has been requested? If we are to have such an absurdity as a classical education, surely it ought to be reduced to a minimum. Do pray, before it is too late, try to stop the ridiculous proceedings of gentlemen so utterly unacquainted with the true interests of the profession. Do they mean that there should be no clerks at all in future?

B.

REVERSIONARY LEGACIES — PRACTICE AS TO SERVING EXECUTORS WITH NOTICE OF ASSIGNMENT.

Would any of your readers kindly state whether it is the usual practice of the profession to serve notices of assignment of reversionary legacies on those of the executors who have not proved the will, but to whom power to come in and prove is reserved. I have usually given notice to only the executors who have proved, but it is just possible that such a notice may be practically useless and unavailing to prevent the assignor obtaining payment or possession of the legacy from an executor taking probate after the death, or going abroad, of the executor to whom I gave my notice;—as such subsequently proving executor may have had no communication with his predecessor, nor possession of his papers, and would, I presume, be justified in paying the legacy to the assignor himself, whose receipt would be an effectual discharge, if the assignee, from not being aware of the falling into possession of the reversion, failed promptly to come forward to claim it. On the other hand, it is often troublesome, if not difficult, to trace the non-proving executors to whom power is reserved; and it would be very inconvenient for those parties themselves to be troubled with, and to have to understand and take care of, notices relating to an estate in which they suppose they have no concern. The difficulty, however, which I most strongly feel is the state and extent of the solicitor's liability to his client in such cases. Is the omission to serve notice on the non-proving executors such culpable negligence as to render him liable to his client, the assignee, in case the latter loses the fruits of his purchase or mortgage by reason of his solicitor's omission to give notice to a non-proving executor? In the event of a loss, the client would probably contend that, as the will disclosed the fact of there being other executors beyond those who have proved, and as the solicitor must be presumed to know the possible consequences of failure to affect them with notice, he ought to trace and serve them; notwithstanding the practical inutility and unnecessary expense of such a course in nine cases out of ten.

Possibly the usage of the profession might be to some extent regarded on the question of the solicitor's liability.

A SOLICITOR.

THE BANK OF ENGLAND AND IRISH PROBATES.

It occurs to me that you will not be unwilling to afford a small space in the *Solicitors' Journal* to bring before the profession generally what I conceive to be an *arbitrary* act on the part of the Bank of England as against executors acting under Irish probates.

By 20 & 21 Vict. c. 79, s. 95, it is enacted, that from and after the period at which this Act shall come into operation, when any probate or letters of administration to be granted by the Court of Probate in Ireland shall be produced to and a copy thereof deposited with the Registrars of the Court of Probate in England, such probate or letters of administration shall be sealed with the seal of the last mentioned court; and being duly stamped, shall be of the like force and effect, and have the same operation in England as if it had been originally granted by the Court of Probate in England. To obtain the seal of the Court of Probate in England to an Irish grant the registrars of the court require a certificate from the Inland Revenue that the full duty has been paid in the grant to cover the English as well as Irish property. In order to obtain such certificate, the Inland Revenue authorities require an affidavit from the executor showing the value of the Irish property, and of what it consists, and also the value of the English property, and its particulars. If the full duty has

been paid on the entire property, and such duty is duly impressed in the grant, the Inland Revenue authorities then transmit a certificate to the registrars of the Court of Probate to that effect, which is deemed sufficient for the Court of Probate to affix its seal to the Irish grant. The grant, with the seal of the Court of Probate attached, is to all intents and purposes, an English grant or probate, and it is adopted as such by all her Majesty's courts of record, bodies corporate, bankers, railway companies, &c., but *not* by the Bank of England till after the Bank authorities are satisfied that the full duty has been paid to cover both Irish and English property, and it is in regard to this unnecessary and uncalled for interference on the part of the Bank of England that I have to complain and to call attention.

Having had occasion the other day to procure the seal of the Court of Probate in England to an Irish grant for the purpose of obtaining a transfer of some stock standing in the name of a testator in the books of the Bank of England, into the names of the executors, I took the Irish grant with the seal of the Court of Probate attached to the Will Office at the Bank and left it for registration in the usual way, claiming a certain amount of stock. After the lapse of two days I called for the probate, when I was informed that the claim was correct, but that before the transfer could be made the Bank required a certified office copy of the certificate from the Inland Revenue, filed at the principal registry of the Court of Probate, in order to satisfy the Bank that the proper duty had been paid on the English as well as the Irish property. I reflected for a short time and became convinced that the Bank was not justified in requiring such certificate, and that the Act of Parliament authorising the affixing of the English seal to an Irish probate, nor any other Act of Parliament, did not require the Bank of England to look after the revenue (unless, indeed, the Bank had been called upon to transfer a larger amount of stock than was warranted by the duty impressed on the probate); and I accordingly declined to procure such certificate, and intimated that the executors would hold the Bank responsible for any loss that might arise by reason of the non-transfer of the stock. I was then desired to see the chief accountant of the Bank on the subject; and that gentleman, after hearing my objection, referred me to Mr. Freshfield, the solicitor to the Bank; but I was unable to get an interview with him, and the matter stood over a few days for Mr. Freshfield to advise the Bank thereon. I believe that Mr. Freshfield immediately put himself in communication with the authorities of the Inland Revenue, who reported to him what was required by them before a certificate was issued to the registrar of the Court of Probate. I afterwards saw the chief accountant, who informed me that Mr. Freshfield had reported to the Bank, and advised that the certificate could not be dispensed with, and, therefore, unless such certificate was obtained, the transfer of the stock would not be made to the executors. Under these circumstances, and particularly as the probate was required in Ireland, and the fund to be dealt with, I had no alternative but to procure a certified office copy of the certificate from the principal registry of the Court of Probate, and for which I paid 6*s.*; and I need not say that for attendances to bespeak the office copy and afterwards calling for, and lodging it at the Bank of England entails an unnecesary expense on executors; and I submit that it is most unreasonable of the Bank to subject any party to this expense, particularly when the Bank authorities are fully aware of the means adopted by the Inland Revenue itself, to protect itself against imposition; and the Bank authorities are equally well aware of the means adopted by the registrar of the Court of Probate to avoid imposition and to justify them in affixing the seal of that honourable court to the Irish grant Upon the knowledge of these facts, I say it is unjustifiable of the Bank to drive parties to this expense and trouble. I must confess I cannot understand why the Bank of England do not require a certificate that the full duty has been paid on an English probate, if it be necessary to do so upon a probate obtained in Ireland with the English seal affixed.

I shall be glad if any of your readers, or even Mr. Freshfield himself, can clearly point out under what Act of Parliament, or under what circumstances, the Bank can incur any responsibility by waiving this certified office copy certificate, and thereby adopting the seal of the Court of Probate attached to an Irish grant, equal and as effective to all intents and purposes as an English probate. J. B.

19th March.

THE NEW *LAW LIST.*

Sir,—On referring to the *Law List* just published I find that my name is improperly inserted as "Yew." This will certainly cause me serious inconvenience, and may do me great injury. I have complained at the publishers, who lay the blame at Somerset House.

Is there any remedy in such a case? By bringing this before your readers you will greatly oblige,

Yours obediently,

Thomas Yeo.

Erskine-chambers, 36, Lincoln's-inn-fields,
London, W.C. March 21.

Ireland.

ADMINISTRATION OF CRIMINAL JUSTICE.

At the monthly meeting of the Dublin "Statistical Society" on Monday last, some points connected with the administration of criminal justice ably introduced in a paper by Mr. R. W. McDonnell, barrister-at-law, came under discussion, in such a manner as to show that the Irish method of conducting prosecutions, although far in advance of that in England, is still far from having reached perfection. Some day or other, after the fifteen or twenty years of deliberation considered necessary in England before any extensive improvement in the law can be effected, prosecutions will, doubtless, be no longer left to private enterprise, but will be conducted by the responsible agents of the Crown. In the meantime, the experiment has been for some time tried here not without success; and the imperfections at which we are about to glance are such as may be readily corrected. It is hardly necessary to premise that prosecutions in Ireland are conducted by solicitors appointed by the Crown, who are remunerated partly by salary and partly by fees. Formerly there was a Crown solicitor for the whole of the circuit; but on any vacancy now occurring, the much more satisfactory plan is followed of appointing a Crown solicitor for each county. When the case for the Crown is complete, and the Attorney-General has (on copies of depositions laid before him for that purpose) directed a prosecution, the briefs are given out to the Crown prosecutors, or counsel who have the privilege of conducting Crown cases in the county. These counsel (two or three in number) are paid entirely by fees, and receive their appointments, which are permanent ones, from the Attorney-General, whose deputies they are considered to be. The number of Crown counsel employed depends, of course, on the nature of the case, and the Crown solicitor brings in the law officers, or one of them, "special," in a case of great moment, as in the late Orange trials in the North. The smaller offenders are tried at Quarter Sessions; and, with that unnecessary multiplication of offices for which this country is remarkable, there is a distinct class of solicitors practising at sessions, who conduct these prosecutions. The latter altogether are, we believe, resident in the counties, whereas the Crown solicitors proper, who are often leading men in the profession, and regard the appointment as a mere appanage to their practice, too often reside in the metropolis, and leave most of the Crown business to the management of a clerk. This is the weak point of the system, a system which is excellent in theory, and which might easily be rendered so in practice, were greater care exercised in the selection of practitioners resident in the several localities as Crown solicitors. The particular evil pointed out by Mr. M'Donnell, and recognized by all who took part in this discussion, was the want of acquaintance with the characters, &c., of the witnesses for the Crown, which very frequently leads Crown solicitors, ignorant of the locality and of its inhabitants, to delegate the "getting up" of the case to the constabulary. The constables, who are generally anxious enough to show their zeal, bring forward as much evidence as they can manage to accumulate, without that careful sifting of the good from the bad for which training of another kind is of course indispensable. Hence it frequently happens that a prosecution framed and supported by the police, breaks down because one witness, and perhaps not a very material one, is "damaged" on cross-examination; and the jury, not apt to discriminate so nicely as to reject part of the evidence and give its due weight to the residue, rush to the conclusion that the case for the Crown has broken down, and give their verdict accordingly. Since writing the above, an illustration has occurred of the too prevalent delegation of these duties to the police, in the course of a trial before the chief justice at the Kildare assizes of some soldiers for a robbery of bank post bills. We copy from the *Express*. A banker's clerk is being examined as to the consecutive dates and numbers of bills issued by him:—

"Mr. *Kelly*, Crown prosecutor, here said he would put all the bank post bills into the witness's hand, and call for them accordingly.

"The *Head-Constable* here began to look for the post-bills and had some delay in getting them.

"Chief Justice—Where is the attorney that has the conduct of the case? It is the duty of the police to catch the thief, and not to conduct the prosecution.

"Mr. *Curran*, counsel for prisoners.—The police always conduct the prosecution."

The result too frequently is, that the case is mismanaged, and that the prisoner's attorney, who knows the locality and knows something about all the Crown witnesses, has a very decided advantage over the Crown solicitor, who supplements his very limited knowledge by the unskilled zeal of the constabulary. Mr. M'Donnell suggests that to the attorney who represents the Crown at quarter sessions should also be delegated the management of the cases tried at the assizes; but we cannot assent to the principle involved in compelling an inferior officer in one department to undertake the work of a superior officer in another, who from absence and want of knowledge cannot efficiently perform his own duties. It would, we consider, be the better remedy to consolidate the two offices in the person of one attorney resident in the county.

Connected with this subject is the inquiry, how far the high military discipline of the constabulary force has promoted or interfered with its efficiency as a force, having for its object the prevention and detection of crime? Many persons are beginning to think that the constabulary, brilliant on parade, and drilled up to the highest point, the admiration of strangers, is not exactly fitted for its real work, and fails to trace crime as a less showy and more unmilitary force might be expected to do. In any given town or village the constabulary will be found, perfect in drill and appearance, occupying with dignity its own barrack, not mixing with the populace, and to all intents and purposes—though not in name—a military force. Observers do not fail to connect this fact with another—that a very large proportion of the worst offenders against life and property remain undiscovered and unpunished.

We pass over some other matters which formed subjects for remark at the meeting referred to. The mischiefs arising from the want of intelligence in jurymen, for example, cannot be remedied by legislation, or by any change that either the legislator or the administrator can effect. We must trust to time and the spread of education to enlarge the class from which intelligent jurors are to be taken. The old complaint of the unequal distribution of punishment re-appeared, and not without reason. Jones receives four years of penal servitude for some small theft, while Brown escapes with three months' imprisonment, although convicted of having nearly killed his wife. This complaint is, at least, as old as the ancient proverb, that "one man may steal a horse, while another may not look over the hedge;" so mellifluously paraphrased by the author of "Fine English" in the last *Cornhill Magazine*. Possibly, if all the crimes, with their corresponding sentences, that occur in the annals of the several circuits were recorded by some central authority, or written in the statistical books of a Redgrave, and printed copies furnished periodically to all the assize-going judges, such information and comparison might do much towards equalising the rates of punishment, and usefully aid in steadying the scales of justice.

THE CIRCUITS—PRIVILEGE OF THE BAR.

All the circuits are now progressing, not without some little contests of the accustomed kind between attorneys and the bar as to the right of the former to examine witnesses. In one of these cases, the judge (on the remonstrance of the members of the bar present), refused to allow an attorney to act in any way in court for a defendant who had not instructed counsel; but the point was, at the instance of the latter, reserved, and will be brought before the full Court at the beginning of term. It will be very advantageous to all parties to have this often-disputed point finally settled. It appears that some of the judges have admitted the right of an attorney to examine witnesses (though not to address the jury), while other judges have upheld to the full extent the alleged privileges of the bar.

THELWALL v. *YELVERTON.*

There is no doubt whatever as to the intention of the defendant to apply to set aside the verdict obtained against him in this famous case. Many lawyers are of opinion that the Chief-Justice misdirected the jury on two very material points. First, it is considered that the marriage in Scotland (assuming it to have taken place at all) was not regarded by the lady when she went through the ceremony as a final, conclusive, and binding marriage, but that she at the time intended to supplement and ratify it by another marriage under the sanction of religion; and that the judge ought to have told the jury that it was no legal marriage, unless regarded at the time as final and conclusive to all intents. Secondly, it is considered by many that the law required Major Yelverton (by baptism and education undoubtedly a Protestant), to have recanted and openly professed the Roman Catholic faith for twelve months prior to the marriage by the priest at Rostrevor; and that the judge ought to have directed the jury accordingly, instead of directing them to find that he was a Roman Catholic, unless any open profession of Protestantism could be proved to have been made by him within the twelve months. On these two points of law, or on either of them, the whole subject may very possibly be re-opened. In any event the mode selected of trying the important questions at issue, was an unsuitable one, and seems but to open up a long avenue of litigation.

THE ACCOUNTANT GENERAL'S DEPARTMENT OF THE COURT OF CHANCERY.

The Metropolitan and Provincial Law Association have addressed a memorial to the Commissioners for inquiring into the constitution of the Accountant General's department of the Court of Chancery, and the provisions for the custody and management of the funds of the Court.

After some preliminary statements, it proceeds to state:—

Part I.

That in 1848 the Association prepared and presented to the then Lord Chancellor, the late Lord Cottenham, a very elaborate memorial, in which the following amendments were, among others since effected, suggested with reference to the banking department of the Court of Chancery. To dispense, as is done by the Accountant General in bankruptcy, with powers of attorney, and to require the Accountant-General of the Court of Chancery to act on letters or such other authority as may be sufficient in law to bar the party, the solicitor of the party verifying such authority. According to the present practice there is no evidence given to the Accountant General that the person signing the power is the party entitled to receive the money under the order; to allow money to be paid into court (as courts of law do) without any order, and also to be invested as is now done with money paid in under the Legacy Act; to have the orders on which the Accountant General acts, or an office copy of them, filed with him; to get a branch of the Bank of England established in Chancery-lane for the convenience of the suitors, in the same way as has been done at the Court of Bankruptcy.

The memorial then refers to the report of the House of Commons Select Committee on fees (1848), and proceeds to recommend that the system of brokerage on suitors' funds be discontinued, and that the Accountant General be paid by a salary, and that only the balance of the stock required to be bought or sold in each day be bought or sold by the broker, and that the one-eighth per cent. on the funds transferred thereby saved to the suitor, and which, but for this alteration would have been actually bought and sold, should be paid to the Suitors Fee Fund for the benefit of the suitors, and that a percentage should be charged instead of fees on all money transactions.

The memorial then states as follows:—In 1852 the association petitioned Parliament to abolish the Accountant General's office, and to substitute a branch of the Bank of England in Chancery-lane, through which the Court of Chancery should pay the suitors as the Government does the public creditors.

On September 16th, 1852, the Metropolitan and Provincial Law Association memorialized the Lords Commissioners of the Treasury as to the staff of this office. In the same year the Incorporated Law Society appointed a numerous committee of the solicitors most experienced in equity practice, twenty-nine of whom representing, by their proper and agency business, perhaps half the suits in the Court of Chancery, signed a report on the whole subject of equity reform, which was printed by the House of Commons, on the motion of Sir James Graham (Parliamentary Paper, House of Commons, 1852, No. 216).

As regards this office, they suggested among other reforms since effected, that the slave compensation system of orders should be adopted. That affidavits of calculation be abolished; that powers of attorney be dispensed with; that money be paid into court without order, and invested without requests every half-year; that all orders on which Accountant General

acts should be filed in his office; and that a branch Bank of England should be established in Chancery-lane. In 1853, on March 31st, the association wrote to the Lord Chancellor, enclosing a copy of their petition to the House of Commons in 1852, and again recommending the abolition of this office, and representing the inadequacy of the staff. The reply of the Lord Chancellor's secretary stated that the whole subject was under consideration.

In 1853 the association again petitioned Parliament to abolish the Accountant General's office. In 1854, the association reported that they were convinced the only sound principle was to do away with the office altogether. From the year 1853 to 1856, the consideration of the reform of the Court of Chancery was much removed from the action of the Legislature by the existence of the Chancery Commission, on which not one single solicitor, or officer of the court who had been a solicitor, was appointed, although the Lord Chancellor was memorialized to take that step. The existence of this commission, so constituted, materially deadened the efforts of the solicitors for several years. In 1856, in the third report of the Chancery Commission, the Accountant General's office was only incidentally touched on, viz., as to the proposed abolition of the counter signature of cheques by the registrar (which abolition both registrars and many solicitors had advocated), but which was reported against by the commission (see p. 12, Report, &c., Accountant General's Letter, p. 210). In 1857, in July, the Incorporated Law Society's Equity Committee made a report, of which they sent a copy to the Lord Chancellor, commenting *inter alia* as to this office; on the insufficient attendance, and on the time taken in operations, especially in cases of sales or transfers of stock, preparing drafts, and making out powers of attorney; and again recommended that the whole establishment should be converted into a branch of the Bank of England.

PART II.

The memorial suggests the following points in the present system, as those which call most loudly for alteration and amendment:—

1. There is no officer whose duty it is to see that suitors are not taxed beyond what is actually required, while the existence of the profit funds of the report of the concentration of courts and offices commissioners, called funds B and D, and the fact that they had been permitted to accumulate to such an enormous sum as one million and a half, instead of having been used for the benefit of the suitors of the past generations during which they were accumulated, shows the urgent need of frequent periodical overhauling. Thus in 1852, fees producing say £50,000 a year were taken off, which might have been long before remitted; and there is now a considerable cash balance arising from surplus fees levied.

2. By selling or purchasing the balance only of stock required on any particular day, the chief part of the double one-eighth to the stock-jobber on the entire sales and purchases, which, with brokerage, probably now amounts to £20,000 a-year, might be saved. The present practice in this respect was (mainly on the evidence of solicitors) reported against by the House of Commons select committee on fees in 1849, but it has, nevertheless, been continued ever since.

3. The Bank of England is paid by a £300,000 balance (see Mr. Parkinson's evidence in report of the Concentration of Courts Commissioners last year); but there is no one to see from time to time that it does not exceed that sum. It was above £698,000 in 1859.

4. The great inconvenience caused to suitors—
   1. From having to go to two places for their money.
   2. From having to wait five days for the completion of every sale, and payment of money.
   3. From so many months' holiday per annum being taken.
   4. From there being no staff to meet the times of pressure before vacation.

5. The following particular details also occasion unnecessary expense:—
   1. The keeping of two sets of books and clerks, and all the accounts in duplicate.
   2. The requiring powers of attorney, instead of mere letters, to take out the cheques, which are all payable on the mere endorsement of the party.
   3. Affidavits of calculations.
   4. Registrars giving directions or certificates for sales, and countersigning cheques for interest after the first payment, in which last case, no order being required to be produced to them, their countersigning has become a mere valueless ceremony. Their countersignature of drafts for principal monies occasions much inconvenience and expense. It may be true that it operates as a check on the Accountant-General, but it might be dispensed with, and some less inconvenient plan substituted.

5. The absence of an office reference to the record.

PART III.

The memorial states that the whole question of legal finance is so bound up with that of the taxation of the suitor, that it is quite impossible to give due consideration to the one subject without entering on that of the other. Thus the House of Commons committee in 1848, which was appointed only on the fee question, found itself obliged to go into the two subjects, and examined the broker and chief clerk of the Accountant-General (Messrs. Mortimer and Parkinson), and it is hoped that the terms and constitution of the present commission may be extended to the consideration of legal finance, and the taxation of the suitor generally in all the courts of England, in order that this very important subject may be investigated in the most comprehensive manner.

All courts more or less require a banker, and your memorialists are of opinion that there should be, as far as possible, one joint banking department for all the courts of justice, both superior and inferior, including the Court of Bankruptcy. This ought to be a source of profit, and its accounts should be annually overhauled and audited by some responsible officer. At this banking department a State deposit account might be also instituted where money, under the control of any court for too short a period to make an investment in stock prudent, might be made productive, though the rate of interest might justly be very low, only just sufficient to give a profit. Suitors might be left the option of depositing their money here, or investing in stock. Of course, as long as fees are taken from suitors, all banking profit should go to aid the suitors. But the principle laid down in 1849 by the House of Commons select committee on fees, of taxing monetary steps by way of per centage (which would be the practical effect of their present proposal), should be the governing one, as it gets away from the unjust poll-tax system, and puts the incidence of the tax where it ought to be, on property. And if that principle be adopted, then the profit of such banking will go for the benefit of the suitors paying such per centage. At present there is no uniformity of principle in assessing or levying fees, or in seeing that they are duly accounted for. The Common Law Procedure Acts have all passed since the report of 1849, and yet no provision for collection by stamps is made in them. In the common law courts there are rather above one hundred persons who collect fees as stewards for the Treasury without any efficient check; and no means exist of detecting defaulters in these courts, or in the local and county courts. Under these circumstances, inquiries should be made into—

The whole system of collecting fees, the existing arrangements, and the most desirable way of providing for the custody, paying in and out of court, and investing of the funds of suitors in all courts, whether of law, equity, bankruptcy, admiralty, probate, or county courts in England and Wales. And that some competent officer should be appointed to superintend the banking department, so as to insure the realization of as large a profit as possible therefrom.

The best mode of auditing the accounts of all officers and agents employed, and of securing and auditing the accounts of all fees levied on suitors for the maintenance of courts, officers, salaries, &c., and of bringing the whole subject annually under direct Parliament control.

The memorial contains copious extracts from the documents to which it refers.

The memorial, therefore, asks that the commissioners may receive the evidence which members of the association, as practising solicitors, are able to give upon a subject with the details of which they are so intimately acquainted, and which so materially affects the interests of their clients the suitors.

(Signed on behalf of the Association)

THOS. KENNEDY, Chairman.
PHILIP RICKMAN, Secretary.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

(*Concluded from page* 364.)

I imagine that I have now said quite enough to show that the argument of "unfairness," as urged against the proposed change, is simply ridiculous. Indeed, that argument, when rightly understood, is in favour of the change. The existing

law is defective in not showing sufficient forbearance towards prisoners, inasmuch as it closes their mouths, and permits them to be convicted on evidence which they might disapprove or satisfactorily explain if they were enabled to give testimony. Let us imagine the case of an innocent man charged with the commission of a crime—would not he be anxious to tell his own story to the jury, and would not his examination tend materially to establish his innocence? These questions can only be answered in the affirmative. Then the law which precludes him from tendering himself as a witness was not made for his benefit. But it was made, we are told, for the benefit of prisoners. Then it must have been made for the benefit of the guilty. But is it just or wise that the innocent should be exposed to the danger of a wrongful conviction in order that the guilty should have no temptation to utter falsehood, and should escape the possibility of any hostile presumption being raised against them in consequence of their silence?

Having now answered all the objections that I have known urged against the proposed change, and having shown that that change would be a substantial boon to all innocent prisoners, I wish to say a few words respecting some special evils that arise from the existing law. And first it must be borne in mind that several large classes of injuries, as for example, assaults, slanders, and frauds, may be dealt with either civilly or criminally. If an action be brought in any of these cases, the defendant can be examined as a witness, but if he be indicted or be summoned before the magistrate, his mouth is closed. His accuser in the one case may give testimony without fear of contradiction, but in the other he must speak in the presence of a man who can, very possibly, expose his exaggeration, disprove his statements, or even turn the tables upon himself. It is obvious that such a law not only gives a very unfair advantage to an accuser who proceeds criminally, but it has a natural tendency to promote prosecutions where actions would otherwise afford a preferable remedy. This view of the operation of the law will probably account for the remarkable fact, that actions for assault are very seldom tried in our county courts, but that complainants in these cases almost invariably proceed either by summons before the justices or by indictment. Magistrates and juries are thus often placed in a very embarrassing position. They are required to adjudicate when, in the event of the defendant being unable to call any witness, they have only heard one side, and this in the face of the legal maxim, which directs them "*audire alteram partem.*" I am assured by one of the ablest of the metropolitan magistrates (Mr. Tyrwhitt, in his letter to the Law Amendment Society on this subject) that through fear of being misled by this partial law, he sometimes feels justified in declining to pronounce any decision. "In assaults," says he, "it often happens that the party alleging himself to be injured is the only witness. It is common to dismiss the summons, and drive the complainant to sue in the county courts, so as to let in the defendant to be examined on oath." Language more condemnatory of the law could scarcely be used, but language as condemnatory was recently used by Chief Justice Erle. (*R. v. Goss*, and *R. v. Ragg*, 29 *Law Jour.*, Mag. Cas., 86, 90.) The point under discussion was to fix the true line between what is, and what is not, an indictable false pretence; an important question, as bearing upon the fraudulent statements by which certain tradesmen have of late years been enabled to palm off spurious articles upon the unwary. After stating that, to constitute a false pretence, there must be a false representation knowingly made respecting an alleged matter of definite fact, his lordship went on to observe, that if the term "false pretence" were rendered more comprehensive, "a purchaser who by his negligence had made a bad bargain, and who wished to get rid of it, might have recourse to an indictment, where the *vendor's mouth would be closed*, instead of being obliged to bring an action where *each party could be heard on equal terms.*" Now I have no wish to quarrel with the learned judge's definition of a "false pretence;" but I feel that I am entitled to question the argument contained in this passage, or rather the wisdom of the law which could alone justify such an argument. Surely the criminality of any act or statement alleged to be fraudulent, and our right to punish it, ought to depend upon the real character of that act or statement, and not upon the facility of proving it, or the difficulty of disproving it. Probably the learned judge would himself, upon reflection, be the first to recognise the justice of this criticism; but he was obviously oppressed by the feeling that the law which shuts a defendant's mouth is an unfair law, and he could not help recollecting, to use his own language, "how extremely calamitous it would be for a respectable man to have an indictment of this sort brought against him."

In prosecutions for conspiracy, riot, and other cognate offences, in the commission of which several persons may have been more or less engaged, the present law has a tendency to promote a very mischievous and oppressive practice, that is, the practice of including in the indictment more persons than the ends of justice require. As no defendant can make a statement on oath, the net is spread as wide as possible, so as to shut the mouths of the greatest number of witnesses. The prosecutor by these means is saved from the danger of contradiction, the real defendants are deprived of valuable testimony, and men, who perhaps have slightly transgressed the law, but who never ought to have been exposed to any criminal proceedings, are involved with their more guilty comrades in one common ruin.

Another evil caused by the present law is, that it occasionally furnishes an opportunity for a criminal to escape. This happens thus—the prisoner makes a statement, plausible in itself, but capable of being exposed as false by cross-examination. As he is not sworn, he is not cross-examined. The judge leaves the statement to the jury, cautioning them against believing it, as it was not made on oath, or tested by cross-examination. The jury consider these are unfair reasons to urge, when the man was not permitted either to be sworn or to be cross-examined, and, acting upon the statement, they acquit the prisoner.

It must further be borne in mind, that the law which prohibits a prisoner from giving testimony, is not only unjust towards him in the event of his being innocent, but it is *unfair towards the jury* who are required to pronounce a verdict when they know that, very possibly, they may not have heard "the *whole* truth." In important cases, where the life of the accused is at stake, or where, from the secret nature of the charge, disinterested eye-witnesses can seldom be called to confirm or contradict the testimony of the accuser, the fact that the jury are forced by law to decide on what is practically an *ex parte* statement, cannot fail to oppress them with a heavy sense of responsibility. To a conscientious man the task of sitting as a juryman in a criminal court must ever cause much anxiety, and it is the duty of the Legislature to diminish that anxiety as far as possible. Now, I am persuaded that nothing would so materially produce this effect as a law which would enable the jury to hear everything that could be said on both sides.

Passing now to the second question which I invite the society to discuss—I mean the question whether prisoners ought not to be empowered to call their wives or husbands as witnesses—I do not deem it necessary to dwell on this subject at any length. All the arguments in favour of permitting prisoners themselves to testify on oath apply with redoubled force to their wives or husbands; and the objections, such as they are, which are urged against the adoption of the first proposition, have, comparatively speaking, little bearing on the second. By the present law, if a wife is injured by her husband, she may indict him for the injury, and give evidence against him. Nay, he may be convicted on her sole, uncorroborated, testimony. In civil suits the husband and wife may be examined as witnesses either for or against each other, and in suits between strangers they may be called on opposite sides, and may point blank contradict each other. In the face, then, of such laws, I am unable to discover any sound reason for rejecting the testimony of a wife when called by her husband to disprove a charge which he is required to meet in a criminal court. She might, no doubt, in some cases be tempted to commit perjury in the hope of screening a guilty husband; but the question is, whether this evil is at all comparable to that which results from withholding her testimony, when she can speak to facts which may establish her husband's innocence. To my mind this question can only be answered in one way; and it appears to me that a law which prevents a wife from aiding her husband when wrongfully accused, can be described in no other language than as a monstrous injustice.

It remains for me only to observe, that our illustrious president Lord Brougham, with that enlightened spirit which has made him, κατ' ἐξοχήν, the pioneer of law reform, has on three several occasions—(in the session of 1858, 1859, and 1860, when his lordship brought in Bills to remedy the evils of the existing law, not one of which was quite satisfactory; for all of them omit to notice offences punishable on summary conviction, and offences against the revenue, and they all permit the wives of persons to testify at their own option, and not at the option of their husbands, and some other defects might be pointed out in these Bills, though substantially they are right.)—brought this subject more or less prominently under the notice of the House of Lords. That he has not hitherto met with success is a matter of no surprise, for the change is undoubtedly one of

some magnitude, and the arguments in favour of it have not, until very recently, attracted the attention of the public. Even now much misapprehension as to the real merits of the measure prevails in certain quarters, and we have no right to expect that the doubts respecting its expediency should be cleared up until the subject has undergone a thorough discussion. In the hope of promoting such a discussion, I have drawn up this paper, and I leave the matter with much confidence in the hands of the society.

PROMOTION AT THE BAR.

The petition to the Crown, mentioned in the letter of Mr. Edward Webster, which appeared in the columns of this journal last week, was presented by him in his private capacity, and not as a member of the bar. As the subject is one of much importance, we devote some space to Mr. Webster's statement, which, moreover, is not without interest, in itself.

It referred to a schedule, signed by Mr. E. Webster, stating the reasons on which it was founded, and which we are enabled to give at length. The petitioner prayed the Crown to direct the attention of its responsible advisers to the effect on the Crown, the suitor, and the bar, of the present system of promotion at the bars of England and Ireland, respectively. The petition has been presented.

The schedule is as follows :—

1. Although your petitioner has never had a large professional business, he has within the last five and twenty years, advised and conducted to a successful issue some of the most important and difficult suits that have ever been instituted in the High Court of Chancery, and is, therefore, fully competent to form a judgment upon the subject of the foregoing petition.

2. The bars of England and Ireland are now divided into two sections, called respectively the inner bar and the outer bar.

3. The inner bar is composed of the forensic law officers of the Crown, serjeants at law, counsel called to the council of the Crown, and doctors of law being advocates, and counsel having patents of precedency.

4. The outer bar consists of all other barristers.

5. The inner bar is higher in rank than the outer bar, and sits in court within a barrier of its own, from which the outer barrister is excluded.

6. Until a comparatively recent period in the history of England, the bar of England consisted of the forensic law officers of the Crown, serjeants at law, and doctors of law, being advocates who were honorary members of the bar, and other barristers, but, except in the Court of Common Pleas, in which the serjeants at law had a monopoly of the business, there were in all the other courts of law and equity no exclusive privileges whatever, save a right of pre-audience and a right to a seat in court according to the rank or standing of each barrister. Since about the year 1668, and more especially of late years, it has been customary for the Crown to confer by letters patent in England and Ireland, but not in Scotland, on barristers selected for the purpose from time to time by the Lord Chancellor, a right of pre-audience over other barristers.

7. The barristers so selected become the sworn, and were formerly the salaried servants of the Crown, and cannot without special leave be employed against the Crown. They are termed "King's Counsel," or "Queen's Counsel," according to the sex of the sovereign for the time being, and become members of the inner bar.

8. The loyalty of the outer bar to the Crown does not depend on the expectation of the preferment so bestowed.

9. The Lord Chancellor in making such selection is liable to err, and, consequently, several barristers have of late years been raised from the outer bar to the rank of Queen's Counsel, who afterwards have not been much employed or have not been at all employed in their profession.

10. The actual services of barristers raised to the rank of Queen's Counsel are very rarely indeed, if ever, required by the Crown, hence their office or duties are for the most part nominal.

11. Nevertheless, whilst the Crown obtains no solid advantages from the right of pre-audience so conferred, such right operates, as hereinafter appears, very injuriously to the suitor, and with much injustice against members of the bar of ordinary talent and acquirements, who are not so fortunate as to obtain from the Lord Chancellor the favour of being placed within the inner bar, and to whom such advancement in their profession is necessary.

12. The fees given to the counsel of the inner bar are larger than those given to counsel of the outer bar, although the briefs given to each counsel are always the same in quantity and quality, and although the outer barrister when employed with a Queen's Counsel may be a better lawyer, a better speaker, and may have more knowledge of his client's case.

13. Solicitors ordinarily consider it their duty to employ a leading counsel chosen from the inner bar.

14. Consequently, a monopoly of the most lucrative professional business is practically enjoyed by the inner bar, which species of monopoly does not exist in any other calling by which your Majesty's subjects maintain themselves by labour, be it labour of mind or of body.

15. Such monopoly operates injuriously to the public welfare, as it largely increases the cost of proceedings to the suitor, and in fact compels solicitors to give leading business to a certain class of barristers instead of having the whole bar to choose from.

16. Such monopoly ofttimes operates very injuriously to those barristers who are not so fortunate as to be selected by the Lord Chancellor, as it frequently deprives them of the opportunity of having that beneficial business which in the course of their profession they would otherwise have.

17. The amount of business whilst at the outer bar and the probable fitness of the candidate are usually, but by no means invariably, regarded by the Lord Chancellor when selecting barristers for the rank of Queen's counsel, and occasionally of late years the Lord Chancellors have called members of the outer bar to the inner bar for reasons entirely extra-forensic.

18. The quantity of business at the outer bar is no certain or even probable test of the qualifications of a barrister to conduct leading business when within the inner bar, inasmuch as a barrister may be an indifferent lawyer yet an attractive and successful advocate, an indifferent advocate yet an excellent judge, an excellent lawyer and pleader and yet utterly inefficient as a leading counsel.

19. The letters patent having no supernatural operation, the learning and ability of the barrister to whom they are granted remains precisely the same as it was before he obtained them, and the only professional advantage he derives from them is that he becomes a candidate supposed to be qualified for the lucrative business monopolised by the inner bar; but as there must always be an equal amount of learning and ability at the outer and the inner bar, it follows, that to the extent to which leading business is monopolised by the inner bar, the learning and ability of the outer bar is displaced and has no action, and is utterly unproductive, although the outer barrister is equally able and justly entitled to exercise the learning and ability so displaced, and cannot be deprived of that right without a flagrant violation of natural justice.

20. So far as the interests of the Crown are concerned, your petitioner verily believes that the monopoly of leading business which it confers on certain members of the bar is injurious, such monopoly being opposed to the principles of free competition on which the Legislature has acted of late years.

21. Moreover, from the errors of selection made by Lord Chancellors, the office of Queen's counsel is getting into disrepute; and your petitioner, in a periodical representing the most advanced and most scientific views of the legal profession in matters connected with the amendment of the law, and which was published a few years ago, finds it described as a "Mock Dignity" (vide 14 vol. *Law Review*, p. 314), an expression which has not the approbation of your petitioner.

22. The Crown must always have great and legitimate influence over the bar, as members of the bar must be selected for judicial appointments.

23. The petitioner in presenting the foregoing petition is actuated by no other feeling than this—viz. he verily believes that for the sake of the Crown, the suitor, and the bar, the utmost competition ought to exist at the bar, and that no exclusive professional privileges ought to be conferred on any barrister, save only the ordinary law officers of the Crown appointed to protect the interests of the Crown, and that the distinction betwen "the inner bar" and "the outer bar" ought to be abolished.

24. If the bar were one and entire, and the Crown were to confer on barristers of extraordinary learning and forensic ability an order of honour, but without any exclusive privileges, and the Crown were to appoint a limited number of barristers as assistants or advocate deputes to the Advocate-General, the Attorney-General, and the Solicitor-General respectively, but without any exclusive privileges, and the Crown had also power to retain as occasion should require, but not permanently, the services of any other barrister, the Crown would be sufficiently protected and the bar would be relieved from all cause of complaint arising from the unavoidable errors made from time to time by the Lord Chancellor for the time being in selecting or not selecting from the outer bar candidates for the rank of Queen's counsel.

COURT OF CHANCERY.

The following is an abstract of the Accountant-General's annual return for 1860, which we published *in extenso* last week, as to the Suitors' Fund:—

Income.	£ s. d.	£ s. d.
Balance of cash on 1st October, 1859	19,902 10 10	
Dividends of £3,904,489 19*s.* stock purchased previously to 1859—viz., £2,613,360 14*s.* 3*d.* on Fund A and £1,291,629 5*s.* 6*d.* on Fund B., and also of £214,165 6*s.* additional stock on Fund A., purchased with suitors' cash during 1860	112,133 9 1	
Rent of late Master's Offices in Southampton-buildings, let to Commissioners of Patents	520 0 0	
		132,555 19 11
Payments.		
* Payments	61,338 13 0	
Carried over to Suitors' Fee Fund	51,162 9 3	
		112,501 2 3
Balance of cash on 1st of October, 1860		20,054 17 8

The following is an abstract as to the Suitors' Fee Fund:—

	£ s. d.	£ s. d.
Balance of cash on the 24th of November, 1859	83,557 13 8	
Cash brought from Suitors' Fund	51,162 9 3	
Dividends of £201,028 2*s.* 3*d.* stock on Fund D, purchased with surplus fees since 1833	5,741 17 4	
Brokerage paid in by Accountant-General under 15 & 16 Vict. c. 87, s. 18	4,105 8 6	
Fees levied on the suitors during the year	97,203 12 9	
Total Income		214,771 1 6
* Payments		156,991 14 0
Balance of cash on the Suitors' Fee Fund on the 24th of November, 1860		84,779 7 6
Add balance of cash on Suitors' Fund on the 1st of October, 1860		20,054 17 8
Total balance of cash on Suitors' Fund and Suitors' Fee Fund		£104,834 5 2

* The following is an analysis of the above payments:—

	Total. £ s. d.	Charged on Suitors' Fund. £ s. d.	Charged on Suitors' Fee Fund. £ s. d.
Compensations (including terminable salaries in respect of abolished offices)	69,710 14 10	27,139 2 8	42,571 12 2
Salaries of officers	116,618 8 11	17,102 18 1	98,515 10 10
Pensions to retired officers	12,115 18 11	12,115 18 11	—
Rents of offices	1,444 16 3	—	—
Expenses of copying in offices	6,695 14 3	—	6,695 14 3
Other expenses of courts and offices, and miscellaneous payments	12,744 13 10	4,980 13 4	7,764 0 6

Law Students' Journal.

EASTER TERM EXAMINATION.

The examiners appointed for the examination of persons applying to be admitted attorneys have appointed Tuesday, the 30th April, and Wednesday, the 1st May next, at half-past nine in the forenoon, at the hall of the Incorporated Law Society, in Chancery-lane. The examination will commence at ten o'clock precisely, and close at four o'clock each day.

Articles of clerkship and assignment, if any, with answers to the questions as to due service, according to the regulations approved by the judges, must be left with the secretary, R. Maugham, Esq., on or before Monday, the 22nd April.*

Where the articles have not expired, but will expire during the Term, the candidate may be examined conditionally, but the articles must be left within the first seven days of Term, and answers up to that time. If part of the term has been served with a barrister, special pleader, or London agent, answers to the questions must be obtained from them as to the time served with each respectively.

On the first day of examination papers will be delivered to each candidate containing questions to be answered in writing, classed under the several heads of—1. Preliminary. 2. Common and Statute Law, and Practice of the Courts. 3 Conveyancing.

On the second day, further papers will be delivered to each candidatec ontaining questions to be answered.—4. Equity, and Practice of the Courts. 5. Bankruptcy and Practice of the Courts. 6. Criminal Law, and Proceedings before Justices of the Peace.

Each candidate is required to answer all the preliminary questions (No. 1.); and also to answer in three of the other heads of inquiry, viz.:—Common Law, Conveyancing, and Equity. The examiners will continue the practice of proposing questions in bankruptcy and in criminal law and proceedings before justices of the peace, and in order that candidates who have given their attention to these subjects, may have the advantage of answering such questions, and having the correctness of their answers in those departments taken into consideration in summing up the merit of their general examination.

In case the testimonials were deposited in a former term, they should be re-entered, and the answers completed to the time appointed.

* Candidates, under the 4th section of the Attorneys Act, 1860, may, on application, obtain copies of the further questions relating to the ten years' service antecedent to the articles of clerkship.

Admission of Attorneys.

NOTICES OF ADMISSION.

Easter Term, 1861.

[Candidates' names appear in Small Capitals, and Solicitors to whom articled or assigned in Roman type.]

Queen's Bench.

Aldridge, William Wheeler.—T. Goater, Southampton; G. B. Gregory, 1, Bedford-row.

Appleton, John.—H. Pashley, Sheffield.

Bedford, Charles.—H. Bedford, 4, Gray's-inn-square; E. Ball, Pershore.

Bedford, Henry.—C. Bedford, Worcester; C. Pidcock, Worcester.

Best, William.—J. Ralfe, Winchester.

Bewley, Robert.—W. S. Ward, Leeds.

Bishop, William Thomas Bonnell.—T. Bishop, Brecon.

Bleby, Henry William.—G. Armstrong, Newcastle-on-Tyne

Blew, John Cardall.—T. M. Whitehouse, Wolverhampton.

Bonville, John.—W. Lloyd, Carmarthen.

Boyer, William Alderley.—R. B. B. Cobbett, Manchester.

Brevitt, Thomas.—W. H. Duignan, Walsall; A. S. Lawson, 1, John-street, Bedford-row.

Brutt, William John.—W. W. Duffield, Chelmsford.

Chambers, J. H. Brougham.—J. W. Hamilton Richardson, Leeds.

Child, John Hubert.—R. G. Smith, 6, New-inn, Strand.

Coode, William.—J. Coode, St. Austell.

Crighton, Alexander Clifford.—R. R. Dees, Newcastle-upon-Tyne.

DICKONS, JAMES NORTON.—W. Clough, Pontefract; T. W. Clough, Huddersfield.
DIXON, GEORGE CHEVALLIER.—R. Dawes, Angel-court, City.
DUNN, GEORGE WHITLY.—L. P. Gibbon, Pembroke; E. F. Burton, 25, Chancery-lane.
EVE, RICHARD.—A. S. Field, Leamington Priors; P. Johnston, 36, Lincoln's-inn-fields.
EGLINGTON, WILLIAM MABERLY.—J. Hemmant, Dudley; S. Danks, Birmingham.
FLETCHER, SAMUEL CORNELIUS.—J. Grundy, Bury.
FOSTER, CHARLES.—F. G. Foster, Norwich.
FOSTER, RICHARD BETTON CHARLES PULSFORD.—J. Scarth, Shrewsbury.
FRANCIS, SWINFORD.—H. T. Sankey, Canterbury.
GLEDHILL, ALBERT.—J. C. Laycock, Huddersfield.
GOODMAN, THOMAS.—J. Clark, Sessions House, Old Bailey; H. Avory, Sessions House, Old Bailey.
GREEN, RICHARD DANSEY.—R. Green, Knighton; C. Meredith, Lincoln's-inn; G. B. Crawley, 20, Whitehall-place.
GREENWOOD, GEORGE WRIGHT.—J. Ebsworth, Walsall; R. F. Dalrymple, 46, Parliament-street; T. J. Horwood, 26, New City Chambers, Bishopsgate-street.
HALLAM, EDWARD JOHN.—Francis Paxton, 8, New Boswell-court; and Twickenham.
HELPS, RICHARD SUMNER.—R. Helps, Gloucester; F. Parker, Chester.
HEYWOOD, BENJAMIN ARTHUR.—E. Futvoye, 23, John-street, Bedford-row.
HILL, RICHARD CANNING.—C. Pidcock, Worcester.
HODGSON, JOHN NORMAN.—E. Hough, Carlisle.
HUGHES, JOHN.—L. Peel, Liverpool.
HUSTWICK, WILLIAM ANTHONY.—J. Hustwick, Soham.
JANEWAY, GEORGE WILLIAM HOWARD.—W. Janeway, 38, Bedford-row.
JONES, WILLIAM.—W. Hughes, Conway.
KING, THOMAS, jun.—A. R. Bristow, Greenwich.
KNOTT, JOHN HAMMETT.—H. S. Pownall, 9, Staple-inn.
MANN, GEORGE.—N. C. Gold, York; H. Richardson, York.
MAYHEW, SYDNEY.—A. Mayhew, 26, Carey-street; H. White, 7, Southampton-street.
MERCER, JOHN SHARP.—T. D. Keighley, 73, Basinghall-street; J. Mercer, Raymond-buildings; and 9, Billiter-square.
MOBERLY, WILLIAM HENRY, jun.—W. H. Moberly, Southampton.
MONTGOMERY, JOHN.—M. Allan, Newcastle-upon-Tyne; R. M. Allan, Newcastle-upon-Tyne.
MOORSOM, WILLIAM FREDERICK.—N. T. Lawrance, 6, New-square, Lincoln's-inn.
MOSSOP, SAMUEL SEPTIMUS.—C. Mossop, 60, Moorgate-street; R. F. Bartrop, Kingston-upon-Thames.
NICKINSON, JESSE.—R. Prall, the younger, 19, Essex-street.
NORTH, JOHN WILLIAM.—E. J. Hayes, Wolverhampton.
PARRY, EDWIN.—A. B. East, Birmingham.
PARRY, HENRY EDWARD.—H. Jones, Carnarvon.
PEARCE, PARMENAS WILLIAM.—G. Eastlake, Plymouth.
PHELPS, PHILIP EDMUND.—W. Hobbs, Reading.
POOK, HENRY.—J. C. Dalton, King's-arms-yard, Bucklersbury; H. J. Riches, 34, Coleman-street; C. Brutton, 27, Basinghall-street.
POTTS, EDWARD BAGNALL.—G. Potts, Broseley.
PRIOR, JAMES.—A. C. F. Gough, Wolverhampton.
PUGH, MAURICE LEWIS.—W. Griffith, Dolgelly; W. H. Dunster, 3, Henrietta-street.
PULLEN, THOMAS JAMES.—J. Robinson, 17, Ironmonger-lane.
QUINN, JOHN.—R. Duke, Liverpool; and Birkenhead.
ROBERTS, RICHARD MICHELL.—R. M. Hodge, Truro, Cornwall.
ROBINSON, CHARLES.—R. Robinson, Ripon.
ROGER, WILLIAM.—J. Johnson, 57, Chancery-lane.
RUSSELL, JOHN.—H. S. Wasbrough, Bristol.
SHAFT, GEORGE THOMAS.—A. R. Bristow, Greenwich.
SHAPLAND, JOHN TERRELL.—F. R. Thomas, 3, Fen-court.
SMITH, EDWARD THURLOW LEEDS.—W. Smith, Potton.
SMITH, FRANCIS.—H. Wheeler, Manchester.
SMITH, GRIFFITHS.—F. Smith, 15, Furnival's-inn.
SMITH, JOHN.—C. Jackson, Birstal.
SPILLER, JAMES ROBERT.—J. R. White, Bruton, Somerset; E. F. Burton, 25, Chancery-lane.
STANDRING, HENRY.—J. Standring, the younger, Rochdale.
STANILAND, CHARLES HENSON.—E. Atkinson, 22, Bouverie-street.
SWEPSTONE, WILLIAM HENRY.—T. W. Ratcliffe, Dean Colet House, Stepney.
THOMPSON, JOHN—W. R. Dunstan, Northwich.
TILLY, WILLIAM.—T. Johnson, Lancaster.
TONGE, EDWARD.—J. Evans, 10, John-street, Bedford-row; S. H. Barrow, 2, Queen-street, Cheapside.
TOWNEND, JOHN.—W. N. Perfect, Blackburn; D. Robinson, Clitheroe Castle.
URRY, THOMAS HAMILTON.—J. G. Etches, Whitchurch.
UNWIN, SAMUEL.—S. Heelis, Manchester.
WADHAM, GEORGE.—J. D. Wadham, Bristol.
WASHINGTON, JOSEPH WOODIS CLULOW.—J. T. Wilson and C. Moorhouse, Congleton.
WEBSTER, HENRY.—T. Price, 24, Abchurch-lane.
WHITE, NATHANIEL.—J. White, 13, Barge-yard Chambers, Bucklersbury.
WILLIAMS, JOHN GEORGE.—H. Williams, Lincoln.
WILLIS, CHARLES.—F. Willis, Leighton Buzzard.
WINTRINGHAM, JOHN.—G. Babb, Great Grimsby; H. R. Hill, 23, Throgmorton-street.
WOOD, BENJAMIN PHILIP.—J. T. Auckland, Cliffe, nr. Lewes; J. Edwards, 15, St. Swithin's-lane.
WOOD, HENRY FRANCIS.—J. Taylor, Bradford; H. Roscoe, 36, Lincoln's-inn-fields.
WOOD, JAMES, jun.—C. Ingoldby, Louth.

Pursuant to Judges' Orders.

ALDRIDGE, GEORGE BRAXTON.—H. M. Aldridge, Poole.
ATKINSON, GEORGE JAMES.—T. Taylor, Wakefield.
BROOKES, ROBERT JOHN.—R. G. K. Brookes, Stow-on-the-Wold.
CRUMP, WILLIAM ALEXANDER.—J. W. Nicholson, Lime-st.
EDWARDS, FREDERICK STEPHEN.—T. H. Chubb, Malmesbury, Wilts,
GRAY, BENJAMIN, jun.—E. Lawrance, Old Jewry Chambers.
LOWE, CHARLES FREDERICK.—H. Newbald, Newark-on-Trent.
MOSER, JACOB JOHN.—T. Swainson, Lancaster; R. Marshall, 2, Verulam-buildings, Gray's-inn.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The preamble of the following Bill has been proved in committee:—

LANCASHIRE AND YORKSHIRE (branches to Shaworth).

The following Bills have passed through committee in the House of Commons:—

ASTON TO DITTON.
BRIGHTON, UCKFIELD, AND TONBRIDGE.
EDGEHILL TO BOOTLE.
EXETER AND EXMOUTH.
GARSTON AND LIVERPOOL.
LLANIDLOES AND NEWTOWN.
MARLBOROUGH.
NANTWICH AND MARKET DRAYTON.
STRATFORD-ON-AVON.
WINWICK TO GOLBORNE.
WITNEY.

REPORTS AND MEETINGS.

GREAT LUXEMBOURG RAILWAY.

The directors, by their report, recommend that a dividend of 3*s.* per share be declared, leaving a balance of £62 to be carried forward.

MIDLAND GREAT WESTERN RAILWAY.

The directors, by their report, recommend that a dividend at the rate of 5 per cent. per annum., free of income tax, be declared for the past half-year. This will leave a balance of £7,650 to be carried forward.

NEWCASTLE AND CARLISLE RAILWAY.

At the annual meeting of this company, held on Tuesday last, a dividend of £3 17*s.* 6*d.* for the past half-year was declared.

NORTH BRITISH RAILWAY.

The directors, by their report, recommend that a dividend of 3½ per cent. be declared for the past half-year, leaving a balance of £1,005 to be carried forward.

PARIS AND ORLEANS RAILWAY.

The directors of this company, by their report, recommend a dividend for the past year of £4 per £20 share.

Scottish Central Railway.

The directors, by their report, recommend that a dividend at the rate of 5½ per cent. per annum be declared for the last half-year, and paid on the 5th of April. This leaves a balance of £2,448 to be carried forward.

Crystal Palace.—During next week, commencing on Monday, the entire chorus of the Royal English Opera, combined with the fine band of the company, will give a series of Oratorio performances in the concert hall as follows: viz.: on Monday, a selection of sacred music, by Handel, including portions of the Funeral Anthems, the Dead March in Saul, the last part of the Messiah, &c.; on Tuesday, Elijah; on Wednesday, the Creation; and on Thursday, the Messiah. The rehearsal organ of the Sacred Harmonic Society will be removed from Exeter Hall for the occasion. On Good Friday a Sacred Concert, comprising an unusual number of the most celebrated and well-known pieces, will take place in the centre transept at three o'clock. Mr. Sims Reeves will sing, "Comfort ye my people" (Messiah); "Then shall the righteous" (Elijah); "Sound an alarm" (Judas Maccabeus.) Madame Rudersdorff, "Let the Bright Seraphim," accompanied by Mr. Thomas Harper; and "Inflammatus," with chorus, from Rossini's "Stabat Mater." Mr. Santley and Mr. Weiss, the Duet, "The Lord is a man of war" (Israel in Egypt); and the solos, "Arm, arm, ye brave," (Judas Maccabeus), and "The Trumpet shall sound" (Messiah.) The Old Hundredth Psalm, the Evening Hymn, and God Save the Queen will be sung by the assembled thousands of visitors.

Births, Marriage, and Deaths.

BIRTHS.

ASHE—On March 8, at Gorteenroe, county Cork, the wife of Richard Ashe, Esq., Solicitor, of a daughter.

BOULTON—On March 15, the wife of Robert Boulton, Esq., of 17, Berners-street, Oxford-street, W., Solicitor, of a daughter.

COLT—On March 18, the wife of George N. Colt, Esq., of Lincoln's-inn, of a daughter.

HUGHES—On March 6, at Dublin, the wife of Charles Hughes, Esq., Solicitor, of a daughter.

OWEN—On Jan. 9, at Sydney, the wife of William Owen, Esq., Barrister-at-Law, of a son.

OWEN—On March 20, the wife of W. S. Owen, Esq., Barrister-at-Law, of a daughter.

POLLOCK—On March 4, in Sligo, the wife of Edward Pollock, Esq., Solicitor, of a daughter.

SHIEL—On March 11, at Dungannon, the wife of William Shiel, Esq., Solicitor, of a son.

MARRIAGE.

MORGAN—ROBERTSON—On Feb. 11, at Georgetown, the Rev. Charles Morgan, Demerara, to Mary Sarah Elizabeth, daughter of Erasmus Robertson, Esq., Barrister-at-Law, of the Inner Temple.

DEATHS.

CHITTY—On March 19, Julia Lucy, aged 20, daughter of Tompson Chitty, Esq., Barrister-at-Law.

DENTON—On March 18, Emily, daughter of the late Samuel Denton, Esq., of Gray's-inn.

FARREN—On March 19, Elizabeth, relict of the late George Farren, Jun., Esq., of Lincoln's-inn.

LAKE—On March 15, Herbert John, son of James Philips Lake, Esq., Barrister-at-Law.

SNAGG—On Feb. 16, at Antigua, Ann, the wife of Sir William Snagg, Chief Justice of that island.

STEWART—On Feb. 9, at Ardsheal, Bermuda, in the 66th year of his age, Duncan Stewart, Esq., of Lincoln's-inn, Barrister-at-Law, Her Majesty's Attorney-General for the colony.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

Dent, Lancelot, Esq., Fitzroy-square, Middlesex, £13,000 Consols.—Claimed by Arthur Elley Finch, one of the executors of the said Lancelot Dent.

Lewis, David, Gent., New-inn, St. Clement's, £228 19s. 5d. Consols.—Claimed by Samuel Simpson Toulmin and Samuel Westall, acting executors of Bryan Holme, who was the surviving executor of the said David Lewis.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

	English Funds.			Railways—*Continued.*	
			Shrs.		
	Bank Stock	..	Stock	Ditto A. Stock	104
	3 per Cent. Red. Ann..	..	Stock	Ditto B. Stock	130
	3 per Cent. Cons. Ann.	92	Stock	Great Western	70⅞
	New 3 per Cent. Ann..	..	Stock	Lancash. & Yorkshire	111⅜
	New 2½ per Cent. Ann.	..	Stock	London and Blackwall.	61½
	Consols for account ..	92½	Stock	Lon. Brighton & S. Coast	117⅝
	India Debentures, 1858.	..	25	Lon. Chatham & Dover	47
	Ditto 1859.	93½	Stock	London and N.-Wstrn..	96⅜
	India Stock	210	Stock	London & S.-Westrn.	92⅜
	India 5 per Cent. 1859..	100	Stock	Man. Sheff. & Lincoln..	47
	India Bonds (£1000) ..	30 dis.	Stock	Midland	127½
	Do. (under £1000).....	dis.	Stock	Ditto Birm. & Derby	102
	Exch. Bills (£1000)...	dis. 7	Stock	Norfolk.....	56
	Ditto (£500)....	dis. 15	Stock	North British	64
	Ditto (Small) ..	dis. 15	Stock	North-Eastn. (Brwck.)	101½
			Stock	Ditto Leeds	60⅜
	Railway Stock.		Stock	Ditto York	90½
			Stock	North London.....	100
			Stock	Oxford, Worcester, & Wolverhampton ..	..
Stock	Birk. Lan. & Ch. Junc.	81½			
Stock	Bristol and Exeter....	100	Stock	Shropshire Union	50
Stock	Cornwall	6	Stock	South Devon	42
Stock	East Anglian	17½	Stock	South-Eastern	84
Stock	Eastern Counties	50⅜	Stock	South Wales	61
Stock	Eastern Union A. Stock	39	Stock	S. Yorkshire & R. Dun	97
Stock	Ditto B. Stock	28	25	Stockton & Darlington	41½
Stock	Great Northern	100½	Stock	Vale of Neath	77

London Gazettes.

Windings-up of Joint Stock Companies.

Tuesday, March 19, 1861.

Unlimited in Chancery.

British Provident Life and Fire Assurance Society (Registered).—V. C. Kindersley order to wind up made March 8.

Herald Life Assurance Society.—The Master of the Rolls will, on March 23, at 1, proceed to make a call on contributories of the company, for £1 10s. per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

Tuesday, March 19, 1861.

Charlton, George, Tea Dealer & Grocer, 48, Charing-cross, Middlesex, and also of 6, Acre-lane, Brixton. Hussey, Solicitor, 20, Great Knight-rider-street, London. April 12.

Crosby, John, Banker, Kirby Thor, Westmorland. W. & E. Bleamire, Solicitors, Penrith. May 1.

Dewdney, William, Builder, Horsham, Sussex. Sadler, Solicitor, Horsham, Sussex. May 8.

Scorsby, William, Farmer & Cattle Jobber, Knapton, Yorkshire. Jackson, Solicitor, Malton, Yorkshire. May 12.

Vyse, Thomas, Esq., Leghorn Hat Merchant, formerly of Wood-street, London, and late of Hern-hill Abbey, Surrey. Gregory, Skirrow, Rowcliffe, & Rowcliffe, Solicitors, 1, Bedford-row, Middlesex. June 1.

Winder, Henry, Liverpool and Wavertree, Lancaster. Carson, Ellis, & Field, Solicitors, Talbot Chambers, 3, Fenwick-street, Liverpool. May 1.

Friday, March 22, 1861.

Elsmere, Colley, Farmer, Upton Magna, Salop. Scarth & Sprott, Solicitors, Shrewsbury. April 20.

Gambier, William, Esq., Sacombe-park, Hertfordshire, afterwards of Dover, and late of 46, Charlotte-square, Edinburgh. Oliverson, Lavie, & Peachey, Solicitors, 8, Frederick's-place, Old Jewry, London. May 21.

Garrett, Edward William, a Commander in the Royal Navy, Royal Hospital, Greenwich, Kent. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.

Langdale, Marmaduke Robert, Esq., Garston, Bletchingley, Surrey, and Gower-street, St. Giles-in-the-fields, Middlesex. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.

Smith, Thomas, Esq., Ordnance Office, Tower of London, and late residing at Alkham-villa, Alkham, Kent. Watson, Solicitor, 14, Snargate-street, Dover. June 27.

Tweed, Amphillis Eliza Sarah, Widow, 5, Queen-square, Bloomsbury, Middlesex. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.

Wildman, Colonel Thomas, a Colonel in Her Majesty's Army, Newstead Abbey, Nottinghamshire. Percy & Goodall, Solicitors, Nottingham, or White, Broughton, & White, 12, Great Marlborough-street, Middlesex. May 1.

Creditors under Estates in Chancery.

Last Day of Proof.

Tuesday, March 19, 1861.

Bloor, Mary, Widow, Plumpton-street, Liverpool. Edwards v. Edwards, M. R. April 18.

Cooke, Thomas Simpson, Gent., 92, Great Portland-street, Marylebone, Middlesex. Smith v. Lyle, M. R. April 12.

Cullum, Samuel Henry, Gent., East End, Finchley, Middlesex. Cullum v. Cullum, M. R. April 15.

Hampson, Elizabeth, Widow, City-road, Middlesex. Beltridge v. Adams, M. R. April 13.

MAYBERY, ELIZABETH, Widow, Paxton House, Turnham-green, Middlesex. May *v.* Smerdon, M. R. April 12.

PATERNOSTER, JOHN, Gent., Doward-hill, Whitchurch, Herefordshire. Graham *v.* Paternoster, M. R. April 18.

FRIDAY, March 22, 1861.

ANSELL, JUDITH, Widow, Compton-street, Brunswick-square, Middlesex, & WILLIAM HALE, Hair Dresser, Fetter-lane, Holborn, London. Bestall *v.* Hale, M. R. April 19.

AWDRY, JOHN ROWLANDSON, Seaman. M. R. Nov. 15.

BOWYER, CHARLES, Gent., Cotwalton, Stone, Staffordshire. Meddings *v.* Bowyer, M. R. April 11.

CURTIS, RICHARD, Wine and Spirit Merchant, Midsomer Norton, Somersetshire. Paul *v.* Curtis, M. R. April 20.

HARRISON, RICHARD MATTISON, Esq., Charlotte-row, Walworth, Surrey. Napper *v.* Napper, V. C. Wood. April 8.

JONES, ELEANOR, Widow, Cambria-cottage, Darnley-road, Gravesend, Kent. Little *v.* Nickoll, M. R. April 17.

MURPHY, FRANCIS STACK, Esq., Serjeant-at-Law, 33, Lincoln's-inn-fields, and Earl's-gardens, Brompton, Middlesex. Greenwood *v.* Sturgis, M. R. April 15.

NORMAN, Captain RICHARD, Hay, near Brecon, Brecknockshire. Hathway *v.* Barker, M. R. April 20.

ROBISON, JOHN, Commercial Traveller, Liverpool. Robison *v.* Killey, M. R. April 18.

Assignments for Benefit of Creditors.

TUESDAY, March 19, 1861.

BOTTOMLEY, BENJAMIN GARFETT, Ironmonger, Devonport. *Sols.* Beer & Roundle, Devonport. March 7.

BRAGG, ROBERT, & CHARLES BRAGG, Tailors & Drapers, Sedbergh, West Riding, Yorkshire. *Sol.* Jellicorse, 16, Cooper-street, Manchester. Feb. 26.

CARR, GEORGE, Builder & Bricklayer, Earl Shilton, Leicestershire. *Sol.* Preston, Hinckley. March 14.

COLLINGWOOD, WILLIAM ALFRED, Licensed Victualler, the Magpie and Horse Shoe, Bedford-street, Red Lion-street, Holborn, Middlesex. *Sols.* Child & Son, 62, Cannon-street, London. Feb. 20.

EASLEA, JOHN, Miller & Farmer, Eriswell, Suffolk. *Sols.* J. & J. Read, Mildenhall, Suffolk. March 9.

ETHERIDGE, CHARLES, Berlin Wool Dealer & Fancy Repository, 1, Manorrise, Brixton, Surrey. *Sols.* Langford & Marsden, 59, Friday-street, Cheapside. March 8.

FELDMAN, SIMON FERDINAND, Shoe Manufacturer, New-street, Bishopsgate-street, London. *Sol.* Turner, 68, Aldermanbury, London. Feb. 4.

HEDGE, WILLIAM, Farmer & Trimming Manufacturer, Sarratt, near Rickmansworth, Hertfordshire. *Sol.* Mardon, 99, Newgate-street, London. Feb. 22.

HOLLIDAY, JOSEPH, Tailor & Clothier, Smithford-street, Coventry. *Sol.* Soden. March 9.

JAMES, JOHN, Cordwainer, St. Columb, Cornwall. *Sol.* Whitefield, St. Columb. March 12.

JENKINS, HENRY, Flour Dealer & Miner, Perry-grove, near Coleford, Gloucestershire. *Sols.* Borlase & Robinson, Mitcheldean, Gloucestershire. Feb. 27.

LEE, WILLIAM, Builder, Hereford. *Sols.* Bodenham & James, Hereford. March 8.

LEWIS, JOSEPH, Machinist, Stanley-street, Salford, Lancaster. *Joint Sols.* Shuttleworth, 22, Kennedy-street, Manchester; and Heywood, 25, Dickenson-street, Manchester. March 9.

LUPTON, JOHN, Woollen Warehouseman, 33, Basinghall-street, London. *Sol.* Turner, 68, Aldermanbury, London, March 8.

NAYLOR, JOHN, Machine Maker, Winterton, Lincolnshire. *Sol.* Liversidge, Winterton. March 2.

PROCTOR, ROBERT, & ALEXANDER MACKIE, Cotton Manufacturers, Nelson, near Burnley, Lancashire. *Sol.* Boote, 52, Brown-street, Manchester. March 8.

SCOTSON, WILLIAM, Car Proprietor, Liverpool. *Sol.* Henry, 3, Claytonsquare, Liverpool. March 12.

TEANBY, WILLIAM, Grocer & Draper, Haxey, Lincolnshire. *Sol.* Carnochan, Crowle, Lincolnshire. Feb. 25.

THATCHER, JOHN, Draper & Clothier, Wells, Somersetshire. *Sol.* Sole, 68, Aldermanbury, London. Feb. 14.

THURMAN, WILLIAM, Hosier, Nottingham (W. Thurman & Co.). *Sol.* Hunt, Nottingham. Feb. 23.

FRIDAY, March 22, 1861.

BROOK, WILLIAM, Miller, Hopton, Suffolk. March 5. *Sols.* Muskett & Garrod, Diss, Norfolk.

COLE, JOHN, sen., Builder & Haberdasher, Coventry. Feb. 26. *Sol.* Soden, Coventry.

COX, JOHN, & JOHN GEORGE SHAW, Tallow Merchants & Soap & Candle Manufacturers, Bristol. March 2. *Sols.* Smith & Vassall, Abbot, Lucas, & Leonard, Bristol.

DAVIES, DAVID, Draper, Llangadock, Carmarthenshire. March 6. *Sol.* Price, Falley, near Llandilo.

DAVISON, THOMAS, Merchant Tailor, North Bailey, Durham. Feb. 28. *Sol.* Watson, 6, Sadler-street, Durham.

JEFFERIES, JOHN, Shoemaker, Ashton Keynes, Wilts. March 16. *Sols.* Bradford, Son, & Foote, Swindon.

KETTON, THOMAS, Miller & Flour Dealer, South Stockton, Yorkshire. March 13. *Sol.* Thompson, Stockton.

KIRKMAN, THOMAS, Ironfounder, Farnworth and Little Hulton, Lancashire. March 14. *Sols.* Holden & Andrews, 15, Mawdsley-street, Bolton.

KNIGHT, EDWARD, & RICHARD JAMES DIX, Ironmongers, Maldon, Essex. Feb. 25. *Sol.* Newbould, 14, Norfolk-row, Sheffield, York.

LAYCOCK, ELIZABETH, & JOHN PICKLES, Preston. Feb. 25. *Sols.* Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.

LINNITT, SIDNEY, Manufacturing Jeweller, 44, Berner's-street, Middlesex. Feb. 23. *Sols.* Sudlow, Torr, & Co., 38, Bedford-row, London.

WARREN, SAMUEL, Innkeeper, Melbourne, Derbyshire. March 19. *Sol.* Sale, St. Mary's Gate, Derby.

NURSEY, ALFRED, Stonemason, Redenhall-with-Harleston, Norfolk. March 4. *Sol.* Hazard, Harleston, Norfolk.

PONTING, JOSEPH, Grocer & Tea Dealer, Swindon, Wiltshire. March 9. *Sol.* Kinneir, Swindon.

SMITH, CHARLES, Butcher, Swindon, Wiltshire. March 13. *Sols.* Bradford, Son, & Foote, Swindon.

VICKERS, THOMAS, Farmer, Wroot, Lincolnshire. March 16. *Sols.* Collinson & Littlewood, Doncaster.

WENMOUTH, JAMES, Miller & Farmer, Newbridge, Callington, Cornwall March 18. *Sol.* Nicolls, Callington.

WILLIAMS, OWEN, Tailor, Draper, & Grocer, Ivy House, Gwyddelwern, Merioneth. March 4. *Sols.* Finney, 6, Furnival's-inn, Agent for Marcus Louis, Well-street, Ruthin.

WRIGHT, THOMAS, GEORGE WRIGHT, sen., & GEORGE WRIGHT, jun., Glove Manufacturers, Woodstock. March 15. *Sol.* Walsh, Oxford.

YOUNG, THOMAS, 123, Upper Hill-street, Liverpool, and JAMES POOLE, 16, Dauiby-street, Liverpool. March 9. *Sols.* Norris & Son, 16, North John-street, Liverpool.

Bankrupts.

TUESDAY, March 19, 1861.

BARRIE, ROBERT, Builder & Carpenter, York-street, Covent-garden. Middiesex. *Com.* Evans: March 28, at 2; and April 25, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Boydell, 41, Queen-square, Bloomsbury, and Watford, Herts. *Pet.* March 2.

GRAY, THOMAS, Manufacturer of materials for making Paper, Garrett-mills, Wandsworth, Surrey. *Com.* Fane: March 28, at 2; and April 26, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Brutton, 27, Basinghall-street. *Pet.* March 16.

GROOM, GEORGE, Lithographic Printer, 45, Aldermanbury, London (Groom & Co.). *Com.* Holroyd: April 9, at 12; and May 9, at 11; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Gregson, 8, Angel-court, Throgmorton-street, London. *Pet.* March 8.

LAIDLAW, ALEXANDER W., Wine Merchant, 3, Bury-court, St. Mary Axe, London. *Com.* Fonblanque: March 27, and May 1, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Blake & Snow, 22, College-hill, City, London. *Pet.* March 5.

MEASOR, JOHN, Upholsterer & Cabinet Maker, 37, and 38, Ship-street, Brighton. *Com.* Goulburn: April 8, at 2; and May 6, at 12; Basinghall-street. *Off. Ass.* Pennel. *Sols.* Laurance, Plews, & Boyer, 14, Old Jewry-chambers, Old Jewry, London; or Faithful, Son, & Coode, Brighton. *Pet.* March 18.

MORDAUNT, ALFRED, Chemist & Druggist, Southampton. *Com.* Evans: March 28, at 12; and April 25, at 2; Basinghall street. *Off. Ass.* Bell. *Sols.* Harrison & Lewis, Old Jewry. *Pet.* Jan. 21.

PARRY, WALTER, Carpenter, Builder, & Licensed Victualler, Brecon. *Com.* Hill: April 9, and May 7, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Games, Brecon; or Abbott, Lucas, & Leonard, Bristol. *Pet.* Feb. 28.

PENNELL, SPENCER PERCIVAL, Commission Merchant, Liverpool. *Com.* Perry: April 4 & 17, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool. *Pet.* March 15.

RILEY, WILLIAM, Butcher, Ilkston, Derbyshire. *Com.* Sanders: April 4 & 18, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Lees, Nottingham. *Pet.* March 15.

ROBERTSON, JAMES BOLTON, Draper, South Shields. *Com.* Ellison: March 26, and May 14, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Kidd, North Shields; or Williamson, Hill, & Co., 10, Great James-street, Bedford-row, London. *Pet.* March 16.

SCOTT, PETER, Timber Merchant, Contractor, & Commission Agent, Liverpool, and Newcastle, Down, Ireland. *Com.* Perry: April 4, & 24, at 11; Liverpool. *Off. Ass.* Morgan. *Sol.* Harris, 20, North John-street, Liverpool. *Pet.* March 11.

FRIDAY, March 22, 1861.

BOWEN, WILLIAM, Victualler, Swansea, Glamorganshire. *Com.* Hill: April 9, and May 7, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Taddy, Bristol. *Pet.* March 20.

FIELDING, JAMES, Cotton Spinner & Manufacturer, Macclesfield. *Com.* Jemmett: April 9 & 30, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Atkinson, Saunders, & Herford, Norfolk-street, Manchester. *Pet.* March 18.

GRIFFIN, GEORGE, Grocer & Provision Dealer, Walsall, Staffordshire. *Com.* Sanders: April 4 & 25, at 11; Nottingham. *Off. Ass.* Whitmore. *Sols.* Duignan & Ebsworth, Walsall. *Pet.* March 19.

HUNT, JOHN WEBFORD, Lamp Manufacturer, Liverpool. *Com.* Perry: April 4 & 24, at 12; Liverpool. *Off. Ass.* Turner. *Sol.* Samuell, Liverpool. *Pet.* March 15.

HUNT, THOMAS DEWICK, Innkeeper, Bootle, near Liverpool. *Com.* Perry: April 5 & 24, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Haigh, 24, North John-street, Liverpool. *Pet.* March 18.

KIRKBY, EDWARD, Liverpool, and SAMUEL BRACEGIRDLE, Northwich, Chester, Salt Proprietors & Timber Merchants (Kirkby & Co.) *Com.* Perry: April 4 & 24, at 12; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Commerce-street, Liverpool. *Pet.* March 16.

SALOMONSON, SAMUEL, Bill Broker & Scrivener, 33, Abchurch-lane, London. *Com.* Evans: April 4 at 12.30; and May 2 at 11: Basinghall-street. *Off. Ass.* Bell. *Sol.* Hand, 29, Coleman-street. *Pet.* March 13.

SCOTSON, WILLIAM, Car Proprietor, Liverpool. *Com.* Perry: April 5 & 24, at 12; Liverpool. *Off. Ass.* Bird. *Sols.* Dodge & Wynne, Union-court, Liverpool. *Pet.* March 18.

SIMPSON, WILLIAM, Corn Miller, Newsham Mill, near Pickering, Yorkshire. *Com.* Ayrton: April 8, and May 6, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Cariss & Cudworth, Leeds. *Pet.* March 8.

STEVENS, GEORGE, Merchant, 16, Great St. Helens, London. *Com.* Holroyd: April 9, at 1: and May 9, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Solomon, 54, Coleman-street, London. *Pet.* March 6.

STEWARD, SAMUEL WILLIAM POTTER, Brick Maker, Hellesdon, Norfolk, and Farmer, Fordham, Cambridgeshire. *Com.* Fonblanque: April 3, at 12.30; and May 11 at 1: Basinghall-street. *Off. Ass.* Graham. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury; or Miller, Son, & Bagg, Norwich. *Pet.* March 18.

THOMAS, WILLIAM HENRY, Builder, Dawlish, Devonshire. *Com.* Andrews: April 3, at 1; and May 1, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Fryor, St. Thomas, Exeter. *Pet.* March 18.

YOUNG, CHARLES FREDERICK, Chemist & Druggist, Nottingham. *Com.* Sanders: April 4 & 25, at 11: Nottingham. *Off. Ass.* Harris. *Sol.* Brown, Fletcher-gate, Nottingham. *Pet.* March 15.

VOIGT, AUGUSTUS WILLIAM, Dealer in Pianofortes, Handel-house, 49, St. George's-place, Cheltenham. *Com.* Hill: April 8, at 1; and May 6, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Packwood, Cheltenham. *Pet.* March 20.

WEST, WILLIAM, Bookseller & Stationer, 11, Upper Arcade, Bristol. *Com.* Hill: April 8, and May 6, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Ashley & Tee, Old Jewry, London; or Barker, Bristol. *Pet.* March 19.

WILSON, ALFRED, Draper, 39, High street, Kensington, Middlesex. *Com.*

Evans: April 4, and May 9, at 1: Basinghall-street. *Off. Ass.* Johnson. *Sol.* Farrar. 19, Great Carter-lane, Doctors'-commons. *Pet.* March 19.

BANKRUPTCIES ANNULLED.

FRIDAY, March 22, 1861.

Griffith, John, Bookseller & Stationer, 21, Hanway-street, Oxford-street, Middlesex. March 18.

Paine, Henry, Tailor & Draper, 234, Strand, Middlesex. March 21.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 19, 1861.

Agate, Joseph, Grocer, Tallow Chandler, & Baker, Emsworth, Hants. April 12, at 1; Basinghall-street.—Baker, John, Scrivener, Woodlands, Blagdon, Somersetshire. April 12, at 11; Bristol.—Baker, Richard, General Smith, 103, High-street, Barnstaple. April 11, at 1; Exeter.—Bell, Alexander Dalrymple, & Emil Brassert, Silk Fringe & Trimming Manufacturers & Importers, 7, Goldsmith-street, London. April 12, at 11; Basinghall-street.—Boreham, Henry, Plumber, Painter, & Glazier, 26, Wilmot-street, Russell-square, Middlesex. April 10, at 1.30; Basinghall-street.—Boyce, William, Printer, Stationer, & Bookseller, East Dereham, Norfolk. April 12, at 12; Basinghall-street.—Crighton, Thomas, Machinist, South Sea Peter-street, Manchester. April 24, at 12; Manchester.—Davis, Thomas, Hotel Keeper, 11, Chapel-street, St. George the Martyr, Middlesex, heretofore of Great Malvern, Worcester. April 10, at 1; Basinghall-street.—Fawcett, Benjamin, Grocer, Bradford-road, Huddersfield. April 16, at 11; Leeds.—Foulkes, Henry, Cab & Omnibus Proprietor, & Hackneyman, 33, John-street, Union-street, Kennington-road, Surrey. April 12, at 2; Basinghall-street.—Frampton, John, Butcher, Poole. April 12, at 1; Basinghall-street.—Gray, John, & John Robert Henson, Upholsterers, Undertakers, & Builders, Epsom, Surrey (Gray & Henson). April 12, at 12; Basinghall-street; joint estate John Gray & John Robert Henson; same time, separate estate, John Gray; same time, separate estate, of John Robert Henson.—Harford, John, & William Weaver Davies, Iron Masters, Iron Founders, & Iron Merchants, Bristol, and Ebbw Vale and Sirhowy, Monmouthshire. April 12, at 11; Bristol.—Hayes, Mark, Cheesemonger, New Brentford, Middlesex. April 12, at 11.30; Basinghall-street.—Kiallmark, George William Bryant, Cement Manufacturer, Puriton, Somersetshire. April 24, at 12; Exeter.—Le Batt, Charles, Messman, Exeter Barracks, Exeter. April 10, at 12; Exeter. Lindo, Solomon, Wine, Spirit, & Beer Merchant, & Bill Broker, 42, Westbourne-grove, Bayswater, Middlesex. April 10, at 12; Basinghall-street.—Pattison, Thomas Septimus, & Frederick Miles, Wholesale Stationers, 9, Laurence Pountney-hill, London. April 12, at 2; Basinghall-street; joint estate; same time, separate estate of Thomas Septimus Pattison; same time, separate estate of Frederick Miles.—Peake, Edwin, Builder, Torquay. April 11, at 12; Exeter.—Penfold, William, Smith & Gas Fitter, 4, Market-terrace, Caledonian-road, Middlesex. April 10, at 1.30; Basinghall-street.—Russell, George, Hotel Keeper, Leamington Priors, Warwickshire. April 15, at 11; Birmingham.—Shoberl, William, Publisher & Bookseller, 20, Gt. Marlborough-street, Middlesex, and 27, St. John's Wood-terrace, St. John's Wood, April 12, at 12; Basinghall-street.—Strachan, John, Common Brewer, Newcastle-upon-Tyne. April 11, at 12; Newcastle-upon-Tyne.—Toker, John Buck, Manufacturer of Malleable Cast Iron, Manchester, and of Ospring, near Faversham, Kent. April 12, at 1; Basinghall-street,—Vickers, William Henry, Butcher, 5, Suffolk-place, Lower-road, Islington. April 11, at 11; Basinghall-street.—Wolstenholme, William, Ironmonger, 97, Brook-street, Old Garratt, Manchester. May 8, at 12; Manchester.

FRIDAY, March 22, 1861.

Abbott, James Maud, Carpenter, Builder, Undertaker, Hanwell, Middlesex. April 15, at 11.30; Basinghall-street.—Baker, George, and George Baker, Jun., Stock and Share Brokers, 29, Threadneedle-street, London. April 13, at twelve; Basinghall-street.—Brown, Henry and Brook Hodgson, Velvet Manufacturers, Halifax. April 12, at 11; Leeds.—Daunt, Edward Russell, London, Bill Broker, 37, Old Broad-st. April 12, at 12; Basinghall-st.—Evans, William Nathaniel, and Robert Buncombe Evans, Tanners, Colyton, Devonshire. April 24, at 12; Exeter.—Gilyard, William, & Samuel Brown, Machine Wool Combers & Wool Staplers, Bradford. April 12, at 11; Leeds.—Mayo, Thomas, Wooden Ware Manufacturer, Chesham, Buckinghamshire. April 15, at 12; Basinghall-street.—Morton, Godfrey, and John Williams, Builders, Portmadoc, Carnarvonshire. April 4, at 11; Liverpool.

PURSUANT to an Order of the High Court of Chancery, made in the Matter of the Estate of Francis Stack Murphy, late of No. 33, Lincoln's-inn-fields, and of Earls-court-gardens, Brompton, both in the County of Middlesex, Esq., Serjeant-at-Law, deceased, and in a cause between Esther Greenwood, Plaintiff, and Samuel Sturgis, Defendant, the creditors of the above-named Francis Stack Murphy, who died in or about the month of June, 1860, are by their solicitors, on or before the 15th day of April, 1861, to come in and prove their debts at the chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 23rd day of April, 1861, at 12 o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.—Dated this 18th day of March, 1861.

GEO. HUME, Chief Clerk.

WALKER & HARRISON,
5, Southampton-street, Bloomsbury, Middlesex,
Plaintiff's Solicitors.

We cannot notice any communication unless accompanied by the name and address of the writer.

**** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 30, 1861.

CURRENT TOPICS.

The "Non-trader" and "Dead Men's" Clauses of the Bankruptcy Bill have afforded, as might have been expected, the main grounds of opposition to it. The greatest difficulty, however, was anticipated from the former, and it has been overcome by yielding to the suggestions of Sir Hugh Cairns for the protection of persons who are not engaged in trade, but who are intended to be subjected to the operation of the Act. The "Dead Men's" Clauses have been very wisely struck out of the Bill altogether. They were introduced at the dictation of the mercantile classes, who can hardly be supposed to know what the real effect would have been. The principal clause proposed that creditors of deceased "trader-debtors" might petition the Court of Bankruptcy for a distribution of the estate of the deceased. And it was afterwards provided that no order should be made where a suit for the same purposes had been instituted in Chancery. Application was to be made within three months after the decease of the debtor by any creditor of such an amount as would have entitled him to petition for an adjudication in bankruptcy; and in effect, as Sir Hugh Cairns remarked, persons would always be liable after their death to have the stigma of insolvency attached to their names, without any fault of their own. The jurisdiction thus sought to be given to the new Court of Bankruptcy was altogether foreign to its proper functions, and, moreover, involved the great evil of a new conflict of jurisdictions. We are glad, therefore, that these objectionable clauses have been struck out of the Bill.

THE CASE OF *BROOK* v. *BROOK*.

Perhaps we may venture to describe this case by saying of it, in the words of Lord St. Leonards, that it is one of great importance but of little difficulty. It arose, as is well known, out of an attempt to evade a law which still remains unrepealed in spite of persevering agitation. The party which is active in demanding the repeal of the law against marriage with a deceased wife's sister, would be equally interested in contriving a process of easy application by which that law might be evaded; and, therefore, we may suppose that the decision of the House of Lords on Monday week, was awaited with an anxiety which spread far beyond the persons immediately concerned in the litigation.

Professional readers may have felt an additional interest in this case, because it was an appeal from what was substantially the first judgment given by Sir Cresswell Cresswell, in the character of a judge peculiarly conversant with matrimonial law. On the 4th of December, 1857, after the establishment, but before the opening, of the Divorce Court, Sir C. Cresswell, who was still a judge of the Court of Common Pleas, delivered his opinion as assessor to Vice-Chancellor Stuart in the case of *Brook* v. *Brook*, then pending in the Court of Chancery. That opinion was adverse to the validity of the disputed marriage, and to the legitimacy of the children born of it. The Vice-Chancellor gave judgment in accordance with the opinion of his assessor, and the party asserting the validity of the marriage appealed directly to the House of Lords. The case has been fully argued by able counsel before the Lord Chancellor and three other distinguished lawyers, and the hope of getting rid of this much-discussed portion of the marriage law by the device of a continental trip may now be finally laid aside. Probably this failure on the judicial side of Parliament will produce increased activity in the Legislature. The question can henceforward be discussed only under those aspects of it which lie beyond the province of this Journal. The existing law of England, as declared by the House of Lords, holds that marriage with a deceased wife's sister is contrary to the Divine law, and it refuses to allow its own domiciled subjects, standing in that relation of affinity, to contract marriage even in a country where such marriages are held lawful. It is true that there is a rule of international law which says that a marriage valid according to the law of the country where it is celebrated is valid everywhere. But this rule must be understood to speak only of the forms of entering into the marriage contract. An example of its application may be found in what used to be called Gretna-green marriages, which were contracted in Scotland between domiciled English subjects, without the forms of banns or license required by the English law. Those marriages were held valid, because the forms of the country where the contract was made had been complied with. But what the Lord Chancellor called "the essentials of the contract" depend upon the law of the domicile of the contracting parties, and that law must hold the contract void if it be found defective in these essentials. Perhaps the term "essentials" is not very happily selected to meet all the questions which exercise the ingenuity of the student of this branch of law. There is, for example, the question which came before Sir C. Cresswell in the late case of *Simonin* v. *Malac*, as to the validity of a marriage solemnized in England between persons who, being of an age which by our law enjoys complete freedom of matrimonial engagement, were, nevertheless, required by the law of France to obtain, or at least to apply for, the consent of parents. It is easy to say that the defect existing in that case by the French law was merely a defect of form; but it is quite as easy to represent it as a defect of substance, and we cannot doubt that it would be so regarded by a French court. The Lord Chancellor in his recent judgment said that "it was quite obvious that no civilised state could allow its domiciled subjects or citizens by making a temporary visit to a foreign country to enter into a contract to be performed in the place of domicile, if the contract is forbidden by the law of the place of domicile as contrary to religion, morality, or any of its fundamental institutions." The principle here laid down is quite sufficient to dispose of *Brook* v. *Brook*, because there is no doubt that by the existing law of England marriage with a deceased wife's sister is forbidden as contrary to religion. But such a law as that of France, which requires consent of parents to marriage under a certain age, seems to come very near to what we should call "a fundamental institution," if it were an institution of our own country. Probably there are many persons who think that the prevention of early marriages without the consent of parents deserves to be regarded as matter of public policy, quite as much as the prohibition of marriage with the sister of a deceased wife. The decision in *Simonin* v. *Malac* is, perhaps, open to more doubt than that in *Brook* v. *Brook*; and, at any rate, the comparison of the two cases suggests this remark, that what is called the comity of nations does not usually prevent each nation from treating its own laws and policy as much more important than those of all the world besides. In giving judgment in *Simonin* v. *Malac*, the Court inquired how an English clergyman when called upon to perform the marriage service could be expected to discover that the applicants were the subjects of a law which prescribed certain consents of parents or other formalities as necessary to a valid marriage. Surely it might be asked with almost equal reason why a Danish clergyman should be required to find out that the parties coming before him stood in a certain relation which,

by the law of England, made a marriage between them null and void.

The decision of the House of Lords went upon the ground that, before the passing of Lord Lyndhurst's Act, the marriage in question would have been held illegal, and might have been set aside, in a suit commenced in England in the lifetime of the parties. The effect of that Act was to make all such marriages as would have been voidable before it passed absolutely void. But in considering whether any particular marriage would have been voidable before that Act, reference is necessarily had to the legislative declaration of the prohibited degrees of affinity and consanguinity which was made at the Reformation. It is important to bear in mind that Lord Lyndhurst's Act has no further effect than we have here ascribed to it. In the words of the Lord Chancellor, "this Act was not brought in to prohibit a man from marrying his former wife's sister, and it does not render any marriage illegal in England which was not illegal before." It will be remembered that in the present case both the contracting parties are dead; and the question arises between the Crown and the surviving children both of the first and second marriages as to the succession to the share of a deceased child of the second marriage in the real and personal property of the father. The words of the Act may now be taken to embrace all marriages of this class, contracted in all parts of the world, by persons domiciled in England or Ireland. Speaking popularly, no Englishman can run over to the Continent, go through the ceremony of marriage with his deceased wife's sister, and bring her home with him as his lawful wife. This seems to be the whole effect of the decision of the House of Lords. The opinion of Sir C. Cresswell was rested upon the ground of the incestuous character of such marriages in the eye of the English law, and also upon the further ground that Lord Lyndhurst's Act created a personal disability, which followed Englishmen like their shadows into whatever part of the world they might betake themselves. But this latter doctrine has been rather anxiously repudiated by the House of Lords, and probably it would not be difficult to show that it might lead to doubtful, and perhaps inconvenient, consequences. Lord Cranworth noticed that one of the questions raised in the case had been, whether this Act applied to all British subjects in all parts of the world; and he declared his own view to be that it applied only to persons domiciled in England and Ireland. Of course domicile may be changed without throwing off allegiance, and this notion of a personal disability created by the Act would appear to enlarge its operation, so as to comprise all subjects of the British crown.

The unfortunate effect of this judgment in bastardizing the innocent children of Mr. Brook will bring home very strongly to the popular mind the truth that legal principles and decided cases are not to be got rid of by agitation. The judgment of the Lord Chancellor is intelligible to the lay reader as well as satisfactory to the lawyer. It is at any rate sufficient to dispose of the case before him, and perhaps none the less valuable because it declines to adopt Sir C. Cresswell's refinement of a personal disability. It seems that the appellant's counsel addressed themselves with a good deal of vigorous confidence to the demolition of that subtle theory. Perhaps they may have had reason for the hopes which this part of their case inspired in them; but if they had, this only shows that the best lawyers may sometimes give unsound reasons for perfectly sound judgments.

THE NEW LAW EXAMINATIONS.

For some weeks past our columns have contained numerous letters on the subject of the proposed preliminary and intermediate examinations at the Law Institution. As might have been expected beforehand, there is a great diversity of opinion on the subject. But, except amongst the "ten years' clerks," there appears to be a very general conviction on the part of our correspondents in favour of the institution of compulsory examinations, both preliminary and intermediate, as a test of fitness and proficiency in candidates for admission into the profession. No doubt there is great force in the complaints made by some of our correspondents who desire to avail themselves of the ten years' clause. Many of them who are unquestionably men well fitted to undertake the duties of the profession, and to assume a highly respectable position as members of society, may, nevertheless, find it extremely difficult to pass such an examination as would be very proper for lads who had just left school. Indeed, it is obvious to every person who is qualified to form an opinion on the subject, that a difference of ten or fifteen years in point of age, is of itself a very important element in considering what ought to be the test of intellectual capacity or acquirements. It will not be denied that many men a few years after they take their Master's degree at the University, would find it a very irksome task, without considerable preparation, to pass some of the examinations which presented no great difficulty to them years before. It is, moreover, too much to expect that examiners will not sometimes lean towards severity where candidates are very much beyond the average age. If, indeed, the examination was confined to questions in which the results of experience could be exhibited, it would not be unreasonable to expect from persons of mature age more than from mere boys; but when it is of a character altogether favourable to the latter, this circumstance is one that ought not to be forgotten. In reference to the present occasion it should, also, be borne in mind, that any plan which is adopted may, unless special care be taken, have an unfair retrospective effect so far as the ten years' clerks are concerned. We, therefore, suggest to the Incorporated Law Society, whether it would not be fair towards the "ten years' clerks," to make, at least for some time, a difference between the examinations to be passed by them and those which are prescribed for the general body of articled clerks. It is at present proposed that every candidate must pass in Latin, and either Greek, French, German, mathematics or physics. Such a scheme must in effect exclude not a few respectable men who have been many years away from school and engaged in the practice of the law, but who are by their character and general attainments well qualified for the profession. We suggest then that in the case of "ten years' clerks" there should be an option of being examined in moral philosophy and political economy in place of the subjects which we have mentioned. Ethics and economics belong to the same general division of philosophy as jurisprudence. They can both be studied from text books in the English language; they comprise a domain of knowledge as profitable to the lawyer as they are interesting in themselves; and they are admirably adapted to prepare the minds of men who have not been much accustomed to scholastic training for an accurate and systematic study of law. The great advantage that would thus be gained would be in the fact, not only that such knowledge might be acquired by men of mature age at intervals of leisure, and without irksome cramming, but that it would remain to those who had gained it an important and permanent acquisition. Whether, indeed, all candidates might not be allowed to elect as one subject of examination, logic, metaphysics, ethics or political economy, is a question well worthy of consideration. At Dublin University, where for some years past all these subjects have received great prominence, it is observed that a large proportion of the men who become distinguished at the bar have selected for their final Honour Examination—in other words, they have "gone out" in—the Moral Sciences. Of these, the names of Sir Hugh

Cairns and Mr. Justice Willes, and, if we mistake not, of Mr. Justice Keating, may be mentioned as being best known in England. The "Novum Organum," and other works of Lord Bacon, the treatises of Dugald Stewart, Dr. Thomas Brown, Victor Cousin, and such like authors among the moderns, to say nothing of the greater names of antiquity, constitute, undoubtedly, the best possible preparation for perusing even the technical books of English law. It is not to be expected, however, that ten years' clerks could do more than acquaint themselves with the most elementary works on the subjects to which we have referred—*e.g.*, Dugald Stewart's "Outlines of Moral Philosophy;" Adam Smith's or Sir J. Macintosh's "Ethical Histories;" Thomas Brown's smaller work on "Mental Physiology;" and Archbishop Whateley's "Lectures on Political Economy." All these works are within the ability of any person of tolerable capacity and education; and we think our readers will agree that even a slight acquaintance with the subjects treated by the authors in question would be much more valuable than such a smattering of Latin and Greek as could be obtained from professional crammers by men who have no time, and, probably, no disposition, for anything else than cramming.

Having thus explicitly stated our views, it is hardly necessary for us to say how entirely we agree with the spirit of the suggestions made by Mr. Blyth to the Incorporated Law Society, which were published in this Journal a fortnight ago. In the same number Mr. Sidney Gedge, who is entitled to speak with some authority upon the subject on which he writes, presents to the Council of the Society some formidable objections against the recognition of the "Middle Class Examinations;" and we confess that his reasons appear to our minds to be well-nigh conclusive. We understand that the entire subject is still under the consideration of the Incorporated Law Society, and we have no doubt that the many valuable suggestions which have been made by our numerous correspondents will receive due attention from that body.

The English Law of Domicil.

(By Oliver Stephen Round, Esq., of Lincoln's-inn, *Barrister-at-law.*)

VIII. (*Continued.*)

In my last article I was considering the various authorities referred to in the case of *Munroe* v. *Douglas*, 5 Madd. 379. Upon these citations of cases, and texts of authors, *Sir John Leach* decided in favour of an acquired domicil in India, and it may not, perhaps, be irrelevant in this place to consider certain expressions in this judgment which have been made the ground of argument in favour of intention merely being sufficient to constitute a new domicil, or to let in the domicil of origin. At this distance of time it is difficult to say whether the judgment is a *verbatim* report of what actually fell from the learned judge; the case is otherwise most elaborately and carefully reported, and hence, perhaps, it would not be just to call that fact in question; but, if it is the sense only of what was delivered, that circumstance might account for an apparent inconsistency, attempted, with considerable acumen, to be reconciled by another learned udge now on the bench. The passage is this:—"A domicil cannot be lost by mere abandonment. It is not to be defeated *animo* merely, but *animo et facto*, and necessarily remains until a subsequent domicil be acquired, *unless the party die in itinere toward an intended domicil.*" Now, certainly, this appears to involve a perfect contradiction, that is to say, that a domicil necessarily remained, until a new one was acquired *animo et facto*, unless the party died *in itinere*, towards an intended domicil; that is, unless he did an act which *his Honour* had just said could not constitute a domicil. These words the learned judge last referred to thought applied to the abandonment and not the acquirement. Another view, however, might be taken of them, and perhaps supported by the judgment as a whole. In the subsequent words, his Honour observes upon the fact that the intention to return to Scotland was not supported by the *evidence*, and hence, it may fairly be assumed that, if the evidence had been sufficient, the starting on the journey toward an intended domicil, and that domicil the domicil of origin or birth, might have had the effect of causing such domicil to *revert* (the other and acquired domicil having been abandoned) by starting for another country; and this is somewhat supported by the fact that the whole judgment seems based upon the *defect of evidence.*

Upon the subject of revival of a domicil of origin there was some discussion in the case of *Hoskins* v. *Matthews*, which occurred in January, 1856, before the Lords Justices on Appeal, from Vice-Chancellor Wood, 4 W. R. 216.; in which a residence abroad from ill-health was considered not to be of such a compulsory nature as to prevent the acquirement of a foreign domicil; but the most important part of the case consisted in an observation of Lord Justice Turner, who, after stating the fact that the domicil of origin being English had been lost, and a new one acquired in Sweden, Spain and Portugal, thought, *there was yet enough to show that this new domicil was again lost, and the original domicil revived.* The case was, that subsequently the testator went to Florence, where he made his will and died, and the Vice-Chancellor decided that his domicil was Tuscan, in which Lord Justice Turner concurred; but Lord Justice Knight Bruce, thought that the English domicil remained during the year, when Lord Justice Turner held it had revived, or at all events, that a Tuscan domicil was not acquired; but the opinion of one of their lordships being the same as that of the Vice-Chancellor, the result was that the appeal was dismissed.

Upon the question of reverter, it therefore appears that much more is assumed than actually laid down or decided; and the following proposition may now, I think, be taken to be the law upon the point; namely, that a man must *ex necessitate rei* be taken to have some domicil; and, therefore, supposing that during his life he acquires many, and absolutely abandons and loses them, his native domicil, or domicil of origin or birth, will revive; but only in this way, that there must still be some act on the part of the person to complete the intention that it shall revive; but that in the case of a domicil of origin, a slighter degree of evidence is necessary, a slighter degree of *factum* to support such evidence than in the case of any other species of domicil. That a domicil of origin subsists *ipso facto*, whereas any other species must be acquired by some act; and, lastly, that a domicil of origin cannot revive or revert by the mere intention that it shall do so, which is, in fact, a corollary from the first proposition.

In the case of *MacDaniel* v. *King*, 5 Cushing (American reports) 472—3, the argument was that residence was something different from, and something less than domicil; if this was so under some circumstances, (was observed by the Court) and in connection with a particular subject, or particular words which might tend to fix its meaning; yet in general, residence and domicil were regarded as nearly equivalent; and there seemed to be no reason for making the distinction. The question of residence or domicil was one of fact, and often a very difficult one; not because the principle upon which it depended was not very clear; but on account of the infinite variety of circumstances bearing upon it, scarcely one of which could be considered as a decisive test. The principle seemed to be well settled, that

every person must have a domicil, and he could have *but one domicil* for one purpose; at the same time, it followed of course, that he retained one until he acquired another, and that acquiring another, *eo instanti*, and by that act he lost his next previous one. The actual change of one's residence and the taking up a residence elsewhere, without any intention of returning, is one strong indication of change of domicil. The actual removal of a person from another place to this, leaving his family therein, but with no intention of returning, was a change of domicil.

In the case of *Hoskins* v. *Matthews*, 20 Jur. 110, which I have already mentioned, and shall have occasion hereafter more particularly to refer to, it was laid down, as I have said, as an axiom by Lord Justice Turner, that a domicil of origin after it has been lost, revives more easily than an acquired domicil; thus establishing the position that, whatever domicil a man acquires, or indeed, whatever number of domicils, if he successively loses them all, the domicil of origin, although lost twenty deep, would revive, supposing it was clear that the party at the time of his death had no other. It might, perhaps, be somewhat difficult to put such a case, but we might easily imagine that the movements of the individual might, from choice or circumstances, be so varied and unsettled from the time of attaining majority until death, as that no domicil whatever was acquired, and this alone would raise such a case as to come within the principle I have adverted to. With regard to the *animus remanendi*, the following remarks of Lord Fullerton in the case of *The Commissioners of Inland Revenue* v. *Gordon's executors*, 12 Dec. of Court of Sess.; 2 Ser. p. 657, are somewhat in point. "If, in order to constitute a domicil there were required an *animus remanendi* so permanent and so absolute as to be independent of all possible change of circumstances, I do not understand how, in the constant uncertainty and transition of all sublunary events, a domicil ever could be established. I think, on the contrary, that the domicil is entirely independent of the motive by which the party was influenced in adoping it. If the motive was one which naturally led to a permanent residence, and if under the influence of that motive, the party did act, the *animus* is sufficiently established, and the presumption cannot be taken off by the mere possibility, or even the probability, that but for the existence of the inducement the party might have established himself elsewhere." The same learned judge in the case of *Arnott* v. *Groom*, 9 Dec. of Court of Sess. 2nd series, p. 142, (and therefore, on a previous date) made some very pertinent remarks upon the cases of *Somerville* v. *Somerville*, and the case of Dr. Munroe (*Munroe* v. *Douglas*) where it was held that because he (Dr. Munroe) had not fixed on any other domicil, although it was not pretended that he had not left India permanently,) India was his domicil at the time of his death. Cases might be conceived, he said, involving questions of domicil, in which this principle would lead to strange conclusions, but as limited to the law of intestate succession, it was, perhaps, not very unreasonable. A man having the power of disposing of his property as he chose, and the act of the law being, as it were, the substitute for any expression of his intention on the subject; the change of domicil truly operated as an alteration of his implied will, and there might be some reason for holding that nothing should be held so to operate short of a clear, and definite, and complete purpose to fix himself in some other country, where a different law on the subject was in force. The above *dicta*, as far as they go, are in favour of the reverter of the domicil of origin, and upon the principles regulating this subject, certainly the case of *Munroe* v. *Douglas* went as far as it is possible to conceive the law could be carried. There was an absolute and entire abandonment of the residence in India, the only qualification upon that being that it was not absolutely completed by an acquirement of a new domicil, and the mere progress towards such an end was not thought sufficient to complete the abandonment. But, Lord Fullerton, as above, expressed grave doubts upon the soundness of the rule, and those doubts, are, I think, entitled to great weight; for there scarcely appears any reason where there is a total abandonment, not to hold that the domicil of origin would revive, and be the domicil where a party dies *in itinere*.

(*To be continued.*)

The Courts, Appointments, Promotions, Vacancies, &c.

HOME CIRCUIT.—Kingston.

The commission for the county of Surrey was opened in this town on the 23rd inst. There were only 50 causes entered for trial—41 common and 9 special jury cases.

OXFORD CIRCUIT.—Hereford.

The commission was opened by Mr. Baron Wilde in this city on the 25th inst. There were only 6 causes entered for trial.

WESTERN CIRCUIT.—Devizes.

The commission was opened in this town on the 25th inst. by Mr. Baron Martin. Two causes only were entered for trial.

SOUTH WALES.—Brecon.

The Lord Chief Baron became so unwell on the evening of the 22nd inst. that he was obliged to leave the court, and Mr. Grove, Q.C., sat and tried prisoners.

Mr. Benjamin William Simpson, of No. 17, Gracechurch-street, has been appointed a commissioner to administer oaths in the Courts of Queen's Bench and Common Pleas.

Recent Decisions.

EQUITY.

Assignment of Stock in Trade by Insolvent Trader.

The Oriental Bank v. *Coleman*, V. C. S., 9 W. R. 432.

The case of *Ex parte Bailey* (3 D. M. & G., 534), supplies a good illustration of the principles on which assignments by traders are held void as against assignees in bankruptcy, as tending to defeat or delay creditors. In that case a trader, when insolvent and subject to two judgments, conveyed and assigned to a creditor real property encumbered to its full value, certain policies of assurance, and all his credits, together with his books of account (being all his property, except his furniture and stock in trade) by way of mortgage, to secure the debt due to the creditor. Executions had been issued on the judgments and the furniture and stock in trade were seized under them two days after the assignment. The trader became bankrupt, and it was held that the assignment was void as against his assignees. The deed had been obtained under a degree of pressure which put fraudulent preference out of the question, but it was contended that the deed was void, as contrary to the policy of the Bankrupt Act. There was some doubt whether, at the time he executed the deed, the bankrupt was aware of the issuing of the writs of *fi. fa.*; but he must have known that they might issue at any moment; and however that might be, Lord Justice Knight Bruce thought the execution of the deed, and the delivery of the bankrupt's books to the creditor's solicitor, were "acts of the bankrupt inconsistent with the rational possibility of a continuance of his trade after that day." The deed and the delivery of the books must be taken as parts of the same transaction, by which all chance of the bankrupt continuing in trade, "fairly or substantially, or otherwise than colourably," was destroyed. In answer to the argument that, inasmuch as a substantial part of the bankrupt's estate was left out of the deed, the case did not fall within the principle of the decisions as to assignments of the entire estate, Lord Justice Turner remarked that the true question in that case is, "whether there is such an assignment

as prevents the trade being carried on in the usual and ordinary course?"

On the very day that the above case came before the Lords Justices, the Court of Exchequer Chamber was occupied with the case of *Smith* v. *Cannan* (2 Ell. & Bl. 35). In that case G., a farmer, conveyed all his farming stock and goods to S. by bill of sale by way of security for about £900, with a power of sale. The property comprised in the bill of sale was of about the value of £2,800, and there was a trust for G. of the surplus. The bill of sale comprehended the whole of G.'s property except two shares in a joint-stock bank of the value of £17 10s. each. S. seized and sold enough of the stock to pay the amount secured to him. G. was afterwards declared a bankrupt as a banker in respect of the before-mentioned shares. The bill of sale was *bonâ fide* given under pressure, and of course the trade of the bank was in no degree affected by the giving of it. On these facts the assignees of G. were held entitled to recover against S. the value of the stock seized by him. It was laid down by the Court that the necessary consequence of an assignment of what is substantially all the trader's property, is to delay his creditors, and that the existence of a resulting trust, and of a substantial surplus, does not prevent its having that effect; and, further, that a conveyance necessarily delaying a trader's creditors is an act of bankruptcy, though it has not the effect of stopping his trade. It was said by Baron Parke that the test to be applied in such a case is "not whether the necessary effect of the deed is to stop the trade, but whether its necessary effect is to delay the creditors of the trader." It was a remarkable feature of that case that the property conveyed by way of security exceeded by two-thirds the value of the liabilities for which it was pledged, and that there was an express trust of the surplus for the assignor. The Court held that these facts made no difference. Chief Justice Jervis said: "The whole property is conveyed and put out of the immediate reach of the trader and of his creditors. The fact that there is a substantial surplus may prevent the deed from ultimately defeating the creditors; but it does delay them, for they are deprived of the power of taking that surplus under a *fi. fa.*"

The authorities on this subject, of which the two above noticed are among the most recent, have been lately brought under the consideration of Vice-Chancellor Stuart in the case of *The Oriental Bank* v. *Coleman*, which arose out of the complicated affairs of the estate of the notorious Colonel Waugh. There had already been a suit of *Jolly* v. *Arbuthnot*, 7 W. R. 127, 532, in which the question was between a mortgagee of Waugh's estate of Branksea, and his assignees in bankruptcy, as to the validity of a power of distress contained in the mortgage deed. That question was decided by the Lord Chancellor in favour of the mortgagee, reversing the judgment of the Master of the Rolls. The question in the present case arose between the Oriental Bank, as transferee of the securities held by the London and Eastern Bank, and the assignees of Waugh, and related to the validity of a bill of sale given by Waugh to the latter bank, comprising all the furniture, effects, goods, chattels, and other things in Branksea Castle, or the island of Branksea, where Waugh lived and carried on extensive pottery works. A portion of the property comprised in this bill of sale had been already taken under the distress put in by the mortgagee, and now the Vice-Chancellor's decision gives the remainder to the assignees in bankruptcy. The trade in respect of which Waugh was adjudicated a bankrupt was this pottery business, carried on at Branksea. Vice-Chancellor Stuart said that "a long course of decisions had established this—that if a trader is made a bankrupt, and before bankruptcy, being in insolvent circumstances, has assigned all the stock in trade by which he was enabled to carry on his business, that assignment is fraudulent in the eye of the law, and is an act of bankruptcy in itself." In this case the Court considered that the insolvency was clearly proved, and the bill of sale was therefore declared void. It is to be observed on this decision that it was alleged by the plaintiffs that at the time of giving the bill of sale Waugh possessed other property than that included in it. The Vice-Chancellor does not appear to have noticed this allegation in his judgment, but if it was supported by the evidence, it seems to give the case a different aspect from those we have above stated, in both of which there was substantially nothing left in the trader after the assignment. It is quite true that in *Ex parte Bailey*, the Court said that the question was, whether the assignment prevented the trade being carried on in the usual way? and it would seem that an assignment of all the effects at the pottery works would have this effect. Nevertheless, if a case should arise of an assignment by an insolvent trader of his stock in trade, he having at the time other substantial property, it is possible that such a case would still admit of a good deal of argument, as may be seen by reference to the case of *Hale* v. *Allnutt*, 18 C. B. 505, which is even more recent than *Ex parte Bailey*. In that case A., a licensed victualler, was indebted to B in £570 for goods sold and money advanced. Being pressed for payment, as an inducement for forbearance on the part of B., A. executed a deed whereby he mortgaged to him the public-house in which the business was carried on, and assigned to him all his trade and other fixtures and household furniture, other than his stock-in-trade, with a power of sale. The value of the property mortgaged was between £300 and £400, and the value of A.'s assets at the time was about £1,900. It was held that this deed was not an act of bankruptcy. To this authority may be added the words of Chief Baron Pollock in *Young* v. *Waud*, 8 Exch. 221: "If a man's business be that of a carrier, and he sells his horse and cart, but has ample funds to buy another horse and cart, such an assignment is no act of bankruptcy."

It should be observed that, according to the report, the Vice-Chancellor did not state quite accurately the circumstances of the case of *Smith* v. *Cannan*. The bankrupt in that case had not "reserved a substantial surplus of his property in his possession." He had assigned everything he possessed except the two bank shares; and the value of the property thus assigned was thrice the amount of the debt intended to be secured, so that after satisfying that debt, there would have remained in the hands of the assignee "a substantial surplus" applicable to the payment of the other debts of the assignor. But that surplus could not have been reached by a *fi. fa.*, but only by proceedings in equity by the creditors. It was for this reason that Chief Justice Jervis held that the assignment tended to delay creditors, and was therefore void; but the case was not decided on the ground that the assignor had put it out of his power to carry on business, because, in fact, he was a farmer, and only became liable to the bankrupt law as the holder of two shares in a joint-stock bank. This case of *Smith* v. *Cannan* certainly went very far as to the meaning of the term "delay creditors" in the Bankrupt Act; and if it was not for the later case of *Hale* v. *Allnutt*, it might be easy to understand how any assignment of property by an insolvent trader could be supported in the face of that decision.

COMMON LAW.

BILLS OF SALE, WHEN THEY REQUIRE REGISTRATION—17 & 18 VICT. C. 36, S. 1.

Marples v. *Hartley*, Q. B., 7 W. R. 334.

An important though simple question was settled in this case. The Bills of Sale Act (17 & 18 Vict. c. 36), in effect, applied the system of "filing" or registering, which has long been required with regard to warrants of attorney and cognovits given by a trader to make them effectual as against the assignees in bankruptcy of such trader, to *bills of sale*. Indeed, with reference to these last instruments, the law under that Act is still more stringent; for it provides that unless filed within twenty-one days after execution (as "warrants of attorneys" given by traders are required to be by 12 & 13 Vict. c. 106, s. 136), such instruments shall be void not only against the giver's assignees in bankruptcy or insolvency, but also against *execution creditors*. But the object of registering these instruments was only, as appears from the preamble of the Act, to prevent persons, by giving secret bills of sale to their creditors of their personal property, to keep up the appearance of being in good circumstances and possessed of property, and therefore the provision (as, indeed, also appears from the concluding words of the first section) does not extend to the case of a transaction in which the creditor *takes possession* of the goods assigned to him by the bill of sale. And it follows, as a necessary consequence, that he has the whole of the period of twenty-one days from its execution, to choose whether he shall take possession or register. It is only when he does *neither* that the requirements of the Act come into operation.

LAW OF ASSURANCE—MEANING OF THE TERM "ACCIDENT" IN A POLICY.

Sinclair v. *Maritime Passengers' Assurance Company*, Q. B. 9 W. R. 342.

A somewhat curious point in the law of assurance has been here determined. In a certain policy, the risk insured against was "any personal injury sustained by the assured from or by reason or in consequence of any *accident* to him happening upon any ocean, sea, river, or lake" within a certain period. And within such period, and while sailing on a certain

river, the assured "was struck down by a sun-stroke," from the effects of which he died the same day.

The question was, whether the sun-stroke so received was "a personal injury" resulting from an "accident," within the meaning of the policy; and the Court of Queen's Bench have decided this in the negative.

There is only one reported case which appears to bear at all upon the subject—viz. *Trew* v. *The Railway Passengers' Assurance Company* (29 L. J., Exch., 218; 8 W. R. 191); and this, though relied upon to support the claim on the policy, will be found on examination to be to a certain extent an authority against it. In that case the plaintiff sued for a claim arising upon a policy which was similar to the present one, so far as the point under consideration is concerned, and it appeared that the assured had been seen to go to bathe in the sea, and was not again seen till several hours afterwards, when his dead body was washed ashore; yet it was held that there was no evidence of a personal injury caused by "accident," for that it might have been caused by paralysis or other natural causes. This case, indeed, turned directly upon the *proof* of the accident required in the policy to be furnished to the directors; but some of the expressions of the Barons in delivering their judgments throw light upon the meaning of the term "accident" as used in these policies—themselves, it is to be remembered, of very recent establishment—and, probably, influenced the Court of Queen's Bench in their decision as to the present case. Thus, Mr. Baron Martin incidentally observed that if a person were drowned from the upsetting of his boat or by striking his head against a rock in bathing, such death would be caused by accident, but that it would be otherwise if, being in the water, he was suddenly seized with apoplexy, or even with cramp, by means of which he became disabled and was drowned. Another of the judges suggested—but did not give his opinion as to—the instance of a man suffocated by sleeping in a room with a charcoal fire without sufficient vent.

In the present case it was admitted by the Lord Chief Justice in his judgment that it was difficult to define the term "accident" as used in policies of this nature, so as to arrive with perfect accuracy at the boundary line between death from accident and death from natural causes; but he was of opinion that in all cases of "accident" there must have been of necessity some violence or casualty, and that "sun-stroke" (notwithstanding what is implied by the word itself) is, in reality, nothing more than an inflammatory disease of the brain brought on by over exposure to the heat of the sun; and, consequently, that a death or injury occasioned thereby must be considered as resulting from a natural cause and not from an accident.

Correspondence.

EXAMINATION OF ARTICLED CLERKS.

I have watched with considerable anxiety, being greatly interested therein, the controversy now pending on this question. It may appear rather singular, but my articles were signed the very day before the publication of the number of your Journal which entered upon a course of articles especially addressed to articled clerks. I have, therefore, to request that you will give insertion to the few remarks I am about to make, premising that they are necessarily interested. I have now been a clerk for a period of eighteen years, the last nine of which I have been a managing clerk, and that not in name only. I have been for the last six years engaged in a business of great magnitude, a portion of it comprising applications to Parliament for private Bills, for powers to construct railways and other works, and the business necessarily arising out of the construction of these works.

During this period I have also been left (by reason of the absence of the principal through sickness) for six months at a time to the unassisted management of several very heavy and important matters of business, in which I have frequently had to advise upon questions involving the most serious consequences, and that sometimes at a moment's notice; in addition to which, I have had the entire superintendence of all the other general business of the office,—I have had, over and over again, unassisted and alone, to attend and advise board meetings of directors and committees; to correspond with members of Parliament and public bodies, and officials; and to seek and obtain interviews with members of the Government upon special questions affecting local interests, with a multiplicity of et ceteras very unnecessary to particularize; in none of which several weighty matters have I ever had the misfortune to lose the confidence of client or employer, but, on the contrary, am proud to say have made friends of both.

I happened to be born and brought up in a remote inland county, where twenty years ago parents thought very little (if indeed they thought at all, which I very much question) of a classical education; and consequently when I went first to the office, I was acquainted with nothing more than the rudiments of a very limited English education; and since that time, especially of late years, I have had enough to do, without attending to the education of myself, except in subjects absolutely necessary in conducting the business. I am not acquainted with what I believe from report to be the beautiful works of Homer, Cicero, or Virgil; I cannot understand the French, German, or other foreign language; and I am not much ashamed to confess this, seeing that not a person in the Home Office at the present moment, including Sir G. C. Lewis himself, understands the Hungarian language. I know nothing of mathematics (proper) or physics, and for the matter of that, of metaphysics either, and I could go on *ad nauseam* of what I do *not* know; and yet I shall consider it a very great hardship if any preliminary or other examination should *be required* (as a *sine quâ non* to admission) to be passed by me which included the subjects (some of them at least) recommended by the Committee of the Incorporated Law Society; neither do I believe I should forfeit the confidence and esteem (which I so highly prize) of clients public, or private, or employer, by being unable to pass it; neither would they for that reason believe that I am any the less competent to act as an attorney or solicitor. It appears to me, sir, that the tide has turned, and that the present generation of articled clerks are suffering grievously from the fact that the old system was too lax, and thereby admitted a few black sheep, and seeing that the system is now likely to be changed for one going to the extreme in the other direction. By all means let us keep the profession respectable; let them be gentlemen, (and that as a general rule they must be) but this desideratum, I submit, need not be secured in any way that shall inflict unmerited and unnecessary hardship, and life-long suffering upon even one single individual. "Be just and lean to mercy," it is an old axiom, and one I believe not abused in the long run.

March 26, 1861. An Articled Clerk.

THE BANKRUPTCY BILL.

I see the official assignees in London received in 1860 not less than £22,563 for fees, giving them on an average about £2000 to pay their office expenses. If such highly paid officials are still to exist, I hope they will do their work themselves. How much of their proper work has been delegated to clerks? I submit that certainly as to some of them the clerks do so much of the work their masters should resign in their favour.

A. B. C.

LEGAL EDUCATION.

The report of the committee of the Law Institution is very confusing. Can any of your readers explain it? It seems to me that a great many persons duly qualified will be deterred from offering themselves. £120 a year was paid at school for me, but I did not learn German, as it was not taught in the school: therefore, as I understand the report, Schiller would be my bar to admission. Many parents do not allow their sons to learn Greek; but Xenophon seems essential.

X. Y. Z.

Review.

The Law of Merger as it affects Estates in Land and also Charges upon Land. By Charles J. Mayhew, of the Inner Temple, Barrister-at Law. London: V. & R. Stevens & Sons. 1861.

We believe that every one of our readers will endorse the assertion which forms the opening sentence of the preface to this book—viz. "that the legal doctrine of merger is one of the most curious and subtle in our system of jurisprudence." And after reading Mr. Mayhew's work and perceiving, as we have done, and as every one else will do, what a vast number of cases and questions have arisen during the last few years it is probable that the profession will not, as modestly apprehended by the author, incline to the feeling of surprise that after Mr. Preston's able treatise the writer should attempt to "touch the subject." Our readers will remember that the able treatise to which Mr. Mayhew refers is not a separate work of Mr. Preston's, having reference solely and exclusively to the

law of merger, but that it consists of the 3rd vol. of that gentleman's work on the more comprehensive subject of conveyancing; it will further be remembered that Mr. Preston has hardly mentioned the law of merger as it affects charges upon land, and we conceive that a practical and comprehensive epitome of the cases and doctrines which have been elucidated in the jurisprudence of the Court of Chancery upon that division of the law in question will be useful, because, for the first time, it enables practising lawyers to ascertain the present condition of rules of doctrine which very probably have been modified by recent decisions never hitherto collected. We have read Mr. Mayhew's book with as much care as our leisure has permitted, and we can assure the profession that the author has throughout adopted a most clear and satisfactory method of marshalling the heads of his subject. The work, as indicated by the title, is divided most properly into two parts. The law of merger as it affects estates in land may be said to be matter of conveyancing science and is based upon feudal maxims, the intention of the persons concerned not being, generally speaking, a criterion which the courts consider in decision. The law of merger, as it affects charges upon land, which forms the subject matter of the second part of the work under review, is, on the other hand, matter purely of equitable doctrine. Motive and intention are the prominent considerations in question, which arise in the application of this law, and the settlement of those questions is, therefore, within the field of the jurisprudence of the Court of Chancery. Mr. Mayhew has, in dealing with both branches of his subject, evinced considerable and careful industry in collating the dicta and cases which have reference to the matter or view for the time being under consideration. He has not fallen into the error in any instance of introducing merely speculative and personal disquisitions as to the reasonableness of settled doctrines, nor, as has happened in the cases of one or two recent works of young text-writers, as to the wisdom of the Judges who may, in the author's opinion, have judged illogically or unwisely; and we can recommend his work to the consideration of those who may have need of a *resumé* of all the cases and doctrines to be found in the books upon either branch of the law of merger, from the earliest period down to the present time.

Mr. Preston's matter upon the subject is to some extent dateless. It is, moreover, discursive and not easily to be ascertained for want of a proper index. The reader of his work has to go fortified with previous learning on the principles of the law, and to the student or young lawyer it is not satisfactory. Mr. Mayhew's treatise contains everything which any reader can need or expect; it treats both branches of the law in an easy and intelligible method by considering "estates" in regular gradation of succession—fee-tail, life, and years, and the index to the work is complete and particular.

OBSERVATIONS BY THE MANAGING COMMITTEE OF THE METROPOLITAN AND PROVINCIAL LAW ASSOCIATION, ON THE REPORT OF THE COMMITTEE OF THE INCORPORATED LAW SOCIETY ON EXAMINATIONS IN GENERAL KNOWLEDGE, AND ON INTERMEDIATE EXAMINATIONS IN LEGAL KNOWLEDGE, TO BE INSTITUTED UNDER THE ATTORNEYS ACT 1860.

The committee have appended a copy of the report,* in which they have incorporated the alterations which they desire to recommend to the council.

If the council should feel any difficulty in adopting any of these suggestions, the committee, feeling that they represent a large number of professional men who take a deep interest in this subject, would be glad to be allowed the opportunity of verbally explaining their views to the council.

In the meantime they submit the following few observations which, for convenience sake, they have numbered in accordance with the order of their suggestions upon the accompanying report.

1. It would have been better if the 5th section of the Act had referred to examinations then or thereafter to be established *by* any of the universities instead of *in* any of the universities; so as to avoid any question whether the middle class examinations are included in the provisions of the Act—the committee submit, however, that the wording of the rule ought to follow the wording of the Act.

2. The judges have not any power to make a rule to permit persons to be articled for any specified term. The object of the Act is to regulate the conditions under which persons having been articled may be admitted, and the rule should be worded in accordance with this object.

* * * *

5. The committee submit that the elementary amount of mathematics under the 5th head of the second part of the examination ought to be required from all persons seeking to enter the profession.

It is not an unimportant consideration that a similar amount is now required from all persons seeking to obtain from the Royal College of Physicians a license to practise; that learned body having recently established a preliminary examination, in all respects analogous to that proposed for our profession.

6. The scheme of this second part of the examination, as drawn, does not appear to the committee to recognize sufficiently the important distinction between the general rules which are to be made by the judges, and the temporary regulations which are to be made, and from time to time varied, by the examiners.

The alterations suggested will if adopted bring the scheme more into harmony with the regulations contained in the calendars of our universities, which have also served as a model for the regulations above referred to, recently issued by the Royal College of Physicians.

7. The committee consider this suggestion to be important Questions arising from the subjects of the passages selected for translation afford to examiners an invaluable means of testing whether the candidate has prepared for his examination by intelligent study, or by mere *cram*.

In this respect also the committee propose only to follow the well considered practice of other examining bodies.

8. The study of moral and mental science is so important and so well calculated to exert a beneficial influence upon members of our profession, that the committee would regret to see the scheme prepared by the council omit distinctly to recognize it; while, on the other hand, considering the average age at which the examination will have to be passed, the committee feel that it would be impossible to do more than insert it as an optional alternative.

9. As all persons who have been articled since the passing of the late Act have had full notice that a preliminary examination was contemplated, the committee do not think that any reasonable complaint can be made if all are subjected to the first part of the examination. Indeed, it is obvious that no person is fit to enter the ranks of the profession who is unable to pass an elementary examination in these subjects; while on the other hand the committee entirely concur with the council in thinking that it would not be expedient to subject such persons to the proposed second part of the preliminary examination.

10. The committee regret to see that it is proposed that all the examinations should take place in the hall of the Incorporated Society; and they greatly fear that this resolution if adhered to will cause much dissatisfaction in the country, and will tend to prevent that cordial co-operation in adopting the beneficial provisions of the Act which is obviously so much to be desired.

The wording of the 9th section of the Act is as wide as possible, and contemplates the establishment of more than one intermediate examination; and the committee trust that the council will ask the judges by the new rules to leave them at liberty, should their first experience lead them to desire to do so, to establish additional examinations, and to hold such examinations in as close a proximity as possible to the offices in which the articled clerks are serving their time.

In order to render a period of clerkship one of real and systematic study, the committee would be glad hereafter to see a scheme devised under which every articled clerk in the Kingdom should be examined at the end of every year, at some place within easy reach of his own home.

The committee feel that it would be very injudicious to attempt to establish any such system at the present time; but they are on the other hand equally convinced of the expediency of so wording the rules as to enable the council from time to time to modify the detail of these arrangements in accordance with the results of their growing experience, and they would especially regret to see any rule so worded as to render local examinations impossible.

The University of London have recently adopted a plan by which with great facility the examiners, though themselves remaining in London, conduct matriculation examinations at the various affiliated provincial colleges. A slight modification of this plan, which if the council are not already acquainted with it, we should be glad to have the opportunity of explaining—would enable examinations to be held in every

* The most important parts of the Report of the Incorporated Law Society have already been published in these columns.

town where there is a Provincial Law Society, and, indeed, in every town where there is a solicitor of established reputation.

The committee are not desirous to urge the council to adopt it even partially in the first instance; but they are very anxious that the council should secure the liberty to adopt it hereafter if they should see fit; and they feel sure that as the rule in its present proposed shape would be viewed in many places with considerable jealousy, so the mere liberty to hold local examinations would tend to excite throughout the country the sympathy and co-operation of our provincial brethren.

Regulations altered as suggested by the Committee of the Metropolitan and Provincial Law Association.

That from and after the 1st day of Term 186 , every person who before entering into articles of clerkship shall produce to the registrar of attorneys a certificate that he has successfully passed the senior middle-class examination established *in* (1) the universities of Oxford and Cambridge, or the Moderation examination at Oxford, or the Previous examination at Cambridge, or the Matriculation examination at the universities of Dublin, Durham, or London, *may be admitted and enrolled as an attorney or solicitor after having been subsequently bound by and having duly served under articles of clerkship to a practising attorney or solicitor for the term of 4 years* (2).

In order to carry into effect the enactment in the 8th section, the committee recommend

That from and after the 1st day of Term 186 , every person proposing to enter into articles of clerkship for five years, shall produce to the registrar a certificate either that he has successfully passed the junior middle-class examination established *in* (1) the universities of Oxford or Cambridge, or taken a first-class in the examinations of the College of Preceptors, or has successfully passed an examination by special examiners, whom the committee further recommend that the Lords Chief Justices and Chief Baron, jointly with the Master of the Rolls, be requested to appoint, and that such last-mentioned examination take place half-yearly, and consist of two parts.

Altered Programme of Examination as Proposed by the Metropolitan and Provincial Law Association.

N.B. No alteration is suggested in Part I.

Part II.

Papers also to be set in the following six subjects, and each candidate to be required to offer himself for examination in *three* subjects at least, of which Latin *and Mathematics* must be *two* (5), but no candidate to be examined in more than four.

1. Latin.—Translation of passages *to be selected, two years previously by the examiners, from two of the classical authors ordinarily read in schools* (6). *Candidates to have liberty of choice* between the two works.

2. Greek.—Translation of passages *selected from two of the classical authors ordinarily read in schools.* Candidates to have liberty of choice between the two authors.

(The classical subjects are *until Term* 186 , Latin.—"Cæsar's Commentaries," "De Bello Gallico" (books I. & II.), and "Virgil's Æneid" (books I. & II.).—Greek: St. John's Gospel; Xenophon's "Anabasis" (book I.).

3. French.—Translation of passages *selected from a French author of established reputation, ordinarily read in schools*; easy English sentences to be translated into French.

The French subject is until Term, 186 , Fenelon's "Télémaque."

4. German.—Translation of passages *selected from a German author of established reputation, ordinarily read in schools*; easy English sentences to be translated into German.

The German subject is until Term, 186 , Schiller's "Revolt of the Netherlands."

Besides these translations in the several languages, the candidate to answer, if required, questions on grammar, *history, and geography*, arising from the selected passages (7).

5. Mathematics.—"Euclid" (books I. & II.). Algebra, to simple equations, inclusive.

6. Physics.—"The Elements of Natural Philosophy."

7. Ethics.—"The Elements of Moral Philosophy" (8)

If the examiners conducting such examinations be satisfied with the answers given to the questions, they will sign a certificate to the following effect.

"We certify that A. B. has been examined by us in general knowledge, as required by the rules and regulations of Term, 186 , of the Courts of Queen's Bench, Common Pleas, and Exchequer, and we testify that he has passed a satisfactory examination."

Each person on receiving his certificate to pay the fee of

The committee do not think it expedient to commend that persons who have been articled after the passing of the Act on the 28th August, 1860, but before the rules come into operation, should be examined in Part II. of the above *examination, but they recommend that an examination in Part I. should in those cases be added to the intermediate examination in legal knowledge* (9).

In reference to this examination the committee recommend that the 2nd rule suggested by the council should be worded as follows:—

2. That such intermediate examination shall be conducted in each term by the examiners appointed under the 6 & 7 Vict. c. 73, the orders of the Master of the Rolls of 13th January, 1844, and the rules of the common law courts of Hilary Term, 1853, at such times *and places* as the examiners shall from time to time appoint (10).

CRIMINAL PROSECUTIONS—REMUNERATION TO WITNESSES.

We have received the following communication from a gentleman who is very conversant with the administration of the criminal law, and can speak with some authority on the question now exciting so much attention—the insufficient remuneration of witnesses under the present Treasury scale:—

In the port of Liverpool there are frequent robberies of goods and merchandize from ships, dock-quays, warehouses and other places where the same are deposited; and on a report of such robberies being made known to the police, it is the particular duty of the constables forming the detective department to endeavour to discover the thief and property. In the performance of this duty they experience great difficulties in eliciting information from the labouring classes in consequence of the inadequate remuneration they receive if compelled to attend the police court and sessions or assizes. This unwillingness is more particularly amongst carters and porters, who refuse to give any information, not from dishonest motives, but simply from the insufficient pay awarded to witnesses in all stages of a criminal prosecution. If some of these difficulties should be overcome, and the officer investigating the case had apprehended parties suspected and got the case sufficiently ripe for an enquiry before a justice, he has much trouble in getting the witnesses to the police court and still more in detaining them until the case is called on. To do this he has often to pay such witnesses out of his own pocket in the form of refreshments and sometimes in money to keep them together, as well at the police court as at the trial. Carters only receive 1s. 6d. per day for attending the police court, and at the same time have to pay a man 4s. per day for driving the cart during their absence; porters receive also 1s. 6d. per day for attending the police court, and as porters they receive 3s. 6d. per day. Town witnesses, of whatever class in society, receive no more than 2s. 6d. per day attending at the sessions, and 3s. 6d. per day attending at the assizes. Witnesses from a distance receive for attending the police court 2s. 6d. per day, and 2s. 6d. per night; when attending sessions 3s. 6d. per day and 2s. per night, and when attending the assizes, the same daily allowance with 6d. extra for bed. For travelling, in no case is more than second-class railway fare allowed. In consequence of this parsimony on the part of Government, the detective constables say they have failed to obtain sufficient evidence in many cases of felony, particularly of the class before mentioned, from the porters who, they were morally certain, from information before received, had assisted in the loading of the stolen goods, refusing to *know* anything, and the same as regards the carters who had carted the goods away. They have wasted days making inquiries amongst carters and porters without any good resulting therefrom, and this they attribute entirely to the small sum allowed to witnesses in criminal prosecutions. Those who have once been witnesses tell others what they have received, and thus it becomes generally known. Witnesses brought from a distance to Liverpool in every case are money out of pocket. This falls particularly heavy on poor persons without means to bear the burden, and to enable them to return home the police authorities have to make up the deficiency. In some cases, parties required as witnesses before a police magistrate will not say anything or leave their homes until the police authorities have guaranteed first-class railway fares and a reasonable sum

per day during their absence from home; and the detective constables say, "We find this reluctance to afford information to prevail in all grades of society, and we know of our own knowledge that many a thief escapes detection, and, if apprehended, conviction, from the causes before mentioned. Many will put up with the loss and let the thief go rather than have the trouble of attending the police court for two or three days and then the sessions or assizes for the same period, losing their time and money."

As regards the remuneration to police officers, when they have to attend trials at a distance, the pay allowed them is 1*s.* 6*d.* per day and 2*s.* per night. It would be an insult to common sense to suppose this sum sufficient to support them. They say "many of us have attended in London and other towns and received the above reward for our labours, together with third-class railway fare. In each case we have been money out of pocket more or less, according to the length of time we were away." Prior to the issuing of Sir George Grey's rules and regulations as to the scales of payment to witnesses in criminal cases, the detective constables say they experienced no such reluctance to give information on the part of prosecutors and witnesses as now exists.

There is another great grievance to complain of. Witnesses in criminal cases, as a rule, are poor people who have to rely on their daily labour for their support. They know the trifling sum per day that will be allowed them for attending the court before trial, and are perfectly indifferent in attending the court at the time they are warned to be there, and they make their appearance at different hours during the morning, sometimes keeping the grand jury waiting and sometimes the Court, thereby causing unpleasant remarks to be made by the judge towards the prosecuting attorney and the police officers on the case, but which it is impossible to avoid unless an officer is set to watch over each witness during the night and bring him to the court in the morning at the proper time. As it is, much anxiety and trouble are caused, and frequently messengers in cabs have to be sent after the absent witnesses, thereby incurring expenses which are not allowed by the taxing-officer of the court. It may be said the witnesses are bound over and may be called on their recognizances and have the same forfeited. What do they care? They have no goods worth distraining upon or money to pay, and it would be absurd to take their bodies.

UNCERTIFICATED ATTORNEYS.

At the Bristol County Court (before Sir J. Eardley Wilmott, Bart.), on the 26th instant, Mr. Miller, solicitor, asked his Honour, before the public business of the court was commenced, to allow him to make an application with reference to a matter which was not only of importance to the profession to which he belonged, but also to the Court itself. His Honour was aware that attorneys and solicitors were obliged by Act of Parliament to take out annually a certificate to practise, the proper time being between the 15th of November and the 15th of December in every year. The penalty for not taking out such certificate under the Attorney's Act, 6 & 7 Vict. c. 73, sec. 26, was as follows:—"And be it enacted that no person, who, as an attorney or solicitor, shall sue, prosecute, defend, or carry on any action, or suit, or any proceedings in any of the courts aforesaid, without having previously obtained a stamped certificate, which shall be then in force, shall be capable of maintaining any action or suit at law or in equity for the recovery of any fee, reward, or disbursement for, or in respect of, any business, matter, or thing done by him as an attorney or solicitor as aforesaid whilst he shall have been without such certificate as last aforesaid." It was not without some pain and regret on the part of some members of the profession, himself included, that they found by the *Law List*, of 1860 (a book published by the authority of the registrar of certificates, which though not actually an official document, or evidence in a court of law, was considered by the profession as tantamount to evidence), the absence of six attorneys' names, of this city, from that book, which, in fact, was evidence that they were practising without a certificate—that no less than six names of attorneys, who daily, or weekly, or periodically practised before his Honour in that court, did not appear in that book. Of course, he did not mention names in the matter—he should not choose to do so—still there was the fact patent to any person who liked to look into the book for 1860, that the names of six attorneys, practising in the city then, did not appear in it. His Honour was aware that towards the close of last year another Act of Parliament affecting attorneys was passed, having for its object in some degree to raise the status of the profession by providing for the examination of articled clerks during their articles to test their proficiency and acquirements. That Act was 23 & 24 Vic., c. 127, and was passed on the 27th of August last. He referred to the 27th section, which was as follows:—"Every certificate issued by the registrar between the 15th day of November and the 16th day of December, in any year, shall bear date the 16th day of November, and shall take effect on that day for all purposes, provided it be stamped before the 16th day of December, and in every such case the 16th day of November shall, for the purpose of this Act, be deemed to be the date of the payment of the duty; but if such certificate be not so stamped, it shall take effect, as regards the qualification to practise, on the day on which it is stamped; and every certificate issued at any other time shall bear date on the day on which it is issued, and subject to the provision herein contained relating to certificates stamped after the 1st day of January in any year, and not produced within a month to be entered by the Registrar, shall take effect, as regards such qualification, on the day on which it is stamped; and every certificate shall be and continue in force from the day on which it shall take effect, as aforesaid, until the 15th day of November next following inclusive, and no longer; and any list of attorneys, solicitors, and conveyancers purporting to be published by the authority of the Commissioners of Inland Revenue, and to contain the names of attorneys, solicitors, and conveyancers who have obtained stamped certificates for the current year on or before the 1st day of January in the same year, shall, until the contrary be made to appear, be evidence in all courts, before all justices of the peace, and others, that the persons named therein as attorneys, solicitors, or conveyancers holding such certificates, as aforesaid, of the current year, are attorneys, solicitors, or conveyancers holding such certificates, and the absence of the name of any person from such list, shall, until the contrary be made to appear, be evidence, as aforesaid, that such person is not qualified to practise as an attorney, or solicitor, or conveyancer, under a certificate for the current year; but in the case of any person being an attorney or solicitor, whose name does not appear in such list, an extract from the roll of attorneys and solicitors kept by the registrar, certified under the hand of the secretary of the Incorporated Law Society (while such society performs the duties of registrar), or of the registrar for the time being, shall be evidence, as aforesaid, of the facts appearing in such extract; and in the case of any person being a conveyancer, whose name does not appear on such list, the fact of his being so shall be proved in the way in which it is now by law required to be proved." Such was the present state of the law on the subject. The *Law List* was in future to be the absolute authority in all courts, whether an attorney had or had not taken out a certificate at the proper time. From the new *Law List* first published under that Act, by the authority of the Commissioners of Inland Revenue, were absent the names of parties who were in the habit of appearing before the court, and not having taken out certificates. There were not so many names omitted from the *Law List* this year as there were last year; still certain parties' names did not appear in it. He referred to what they, unfortunately, all knew, that a certain gentleman, no longer among them, his Honour was obliged to summarily expel from the court last year, and that last week they saw by the public prints that his Honour felt himself called upon to tell a solicitor that his conduct was not such as became a gentleman, and (continued Mr. Miller) such circumstances, however remotely they might affect the attorneys, were felt by the profession at large to, in some degree, cast a stigma on the profession, which was not desirable if it could be avoided. His application was founded on the 86th rule of the county court, which was this:—"86. No attorney shall be allowed to appear for any person in a county court until he has signed a roll or book to be kept by the registrar for that purpose, but no fee shall be payable for that purpose, and he shall once in every year, if required by the registrar, produce his certificate for the year to the registrar, who shall note the fact on the roll." His application was that the registrar might be called on to refer to the *Law List*, and where he saw an attorney's name omitted to put in force the 86th rule, by calling on such attorney to produce his certificate before he appeared in a cause before his Honour. It perhaps would be hard to enforce the rule without notice, and if it met his Honour's approbation, he would suggest that until that day month should be given to enable attorneys to obtain certificates before the registrar be called on to enforce the rule. He made that application with the cognisance and approbation of many of the members of the profession, who were, however,

absent—as that was somewhat out of the usual course of county court days—in attendance at the neighbouring assize, and that perhaps would account in some degree for his not being supported by some other members of the profession on that occasion.

His Honour said he was obliged to Mr. Miller for bringing the matter before the Court, for it was important that gentlemen practising there should come properly authorised by the possession of a certificate and every requisite. In almost every case, he had reason to thank the attorneys for the ability with which they conducted the cases in court; but if anything in any quarter required amendment, he would order the enforcement of the rule, which had not been strictly done hitherto. Every gentleman in the profession would be glad to have that rule enforced, and once a-year the attorneys should be called on to show their certificate to the registrar. No one would feel aggrieved at that.

Ultimately his Honour ordered that after the expiration of one month from that time the registrar do ask for the production of the certificates for the current year of solicitors practising in that court.

Public Companies.

REPORTS AND MEETINGS.

North British Railway.

At the half-yearly meeting of this company, held on the 22nd inst., the following dividends were declared:—On the preference stock at the rate of 5 per cent. per annum, on the Jedburgh guaranteed stock at the rate of 4 per cent. per annum, and on the ordinary stock at the rate of 3¼ per cent. per annum, for the past half-year.

Scottish Central Railway.

At the half-yearly meeting of this company, held on the 22nd inst., a dividend at the rate of 5½ per cent. per annum was declared, leaving a balance of £2,400 to be carried over to the surplus fund.

Births, Marriages, and Deaths.

BIRTHS.

Cholmeley—On March 23, at Wimbledon, the wife of Stephen Cholmeley, Esq., of Lincoln's-inn, solicitor, of a son.

Ford—On March 20, the wife of William Augustus Ford, Esq., solicitor, of a son.

Gael—On March 21, the wife of Samuel H. Gael, Esq., barrister-at-law, of a son.

MARRIAGES.

Dawson—Griffinhoofe—On March 20, at Leghorn, Francis Dennis Massy Dawson, Esq., of Lincoln's-inn and the Middle Temple, barrister-at-law, to Harriet, daughter of the late Rev. Thomas Sparkes Griffinhoofe, of Arksdon, Essex.

Wyman—Day—On March 21, George Wyman, Esq., solicitor, Peterborough, to Clara, daughter of the late George Game Day, Esq., of Gloucester-gardens, Hyde-park, London.

DEATHS.

Bourne—On March 25, in her 7th year, Ellen Ada, daughter of James Samuel Bourne, Esq., solicitor, Dudley.

Clarkson—On March 24, Frederick Clarkson, Esq., of Doctors'-commons, aged 64.

M'Lean—On March 16, Louisa Maria, daughter of James M'Lean, Esq., solicitor, Belfast.

Stallard—On March 23, at Worcester, aged 33, Sarah Elizabeth, wife of John Stallard, Esq., solicitor.

London Gazette.

Professional Partnership Dissolved.

Tuesday, March 26, 1861.

Whitcombe, John Aubrey, Richard Helps, & George Whitcombe, Solicitors & Attorneys, Gloucester, by mutual consent. March 25.

Windings-up of Joint Stock Companies.

Tuesday, March 26, 1861.

Unlimited in Chancery.

British Exchequer Life Assurance Company (Registered).—V. C. Wood has appointed Robert Palmer Harding 3, Bank-buildings, London, and 5, Serle-street, Lincoln's inn, Middlesex, Accountant, Official Manager of this Company.

British Provident Life and Fire Assurance Society (Registered).—Creditors to prove their debts before V. C. Kindersley. His Honour has appointed April 22, at 12, for hearing and adjudicating upon the claims.

Deposit and General Life Assurance Company.—The Master of the Rolls purposes on April 16, at 3, to proceed to make a call on all the contributories of the Company settled on the list, for ten shillings per share.

Mexican and South American Company.—The Master of the Rolls has peremptorily ordered a call of eleven pounds five shillings per share on all the contributories set forth in exhibit A, and such contributories are to pay the same on or before April 4 to Robert Palmer Harding, the Official Manager, at his office, 3, Bank-buildings, London.

Limited in Bankruptcy.

Electro Printing Block Company (Limited).—Petition to wind up, presented April 12, will be heard before Com. Goulburn, April 12, at 1.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

Tuesday, March 26, 1861.

Cullingworth, Griffith, Bookseller, Bookbinder, & Stationer, 75, Briggate, Leeds, Yorkshire. Turner, Solicitor, Rothwell, near Leeds. May 15.

Finden, Thomas, Esq., Baron House, Mitcham, Surrey. Solicitor, Remnant, 52, Lincoln's-inn-fields, London. June 1.

Rackham, Thomas, jun., Innkeeper, Wymondham, Norfolk. Solicitors, Mitchell & Clarke, Wymondham. May 6.

Russell, William Edward, Esq., Mansion-house, Swanscombe, Kent. Solicitors, Russell & Son, 52, Moorgate street, City. May 6.

Stanton, Stephen James Bridges, Esq., Chase-lodge, Page-street, Hendon, Middlesex. Solicitors, Ellis, Phillips, & Bannister, 12, Clement's-lane, London. June 1.

Watson, Archibald, Draper, Newcastle-upon-Tyne. Solicitor, Reed, 3, Gresham-street, London. June 1.

Woods, Mary, Widow, Framlingham, Suffolk. Solicitor, Clubbe, Framlingham. May 10.

Wood, William, Gent., Sowerby, Thirsk, Yorkshire. Solicitor, Wetherill, Guisborough. May 10.

Creditors under Estates in Chancery.

Last Day of Proof.

Tuesday, March 26, 1861.

John, Baker, Farmer, Heathfield, Sussex. Stone *v.* Baker, V.C. Kindersley. April 26.

Butler, Maria, Widow, Knowle, Duffield, Derbyshire, Hull *v.* Heygate, V.C. Kindersley. April 13.

Butlin, Eliza, Widow, Braunston, Northamptonshire. Strong *v.* Gery. V.C. Stuart. May 6.

Fricker, John, Gent., Melksham, Wiltshire. Fricker *v.* Fricker, V.C. Wood. April 11.

Greatrex, Charles, Saddler's Ironmonger, Walsall, Staffordshire. Greatrex *v.* Whitehouse, V.C. Wood. April 19.

Hart, Esther, Widow, 77, Gloucester-place, Hyde-park, Middlesex. Hart and Others *v.* Lindo and Others, M. R. April 17.

Hope, Mary, Spinster, 10, Mitre-terrace, Downham-road, Kingsland, Middlesex. Hope *v.* Hope, V.C. Stuart. April 15.

Middleton, William, Woollen Draper, Saint James-street, Westminster. Snell *v.* Toulmin, M.R. April 15.

Potter, Charles, Gent., Albany-road, Camberwell, Surrey. Potter *v.* Potter, V.C. Wood. April 10.

Towry, George Edward, Harewood Lodge, Berkshire. Hopkins *v.* Phillips, V.C. Stuart. April 29.

Whiting, Thomas, Farmer, Bradley, Derbyshire. Birchall *v.* Hough, V.C. Stuart. April 22.

County Palatine of Lancaster.

Chaffers, Rev. Thomas, Clerk, Brazenose College, Oxford. Chaffers *v.* Chaffers, District Registrar, 1, North John-street, Liverpool. April 22.

Wood, Joseph, Cotton Spinner, Radcliffe, Lancashire. Walker *v.* Wood. District Registrar, 4, Norfolk-street, Manchester. April 23.

Assignments for Benefit of Creditors.

Tuesday, March 26, 1861.

Ballard, Joseph, Watchmaker, Lamberhurst, Sussex. March 20. *Sol.* Hinds, Goudhurst, Kent.

Cambray, William, Machinist, Great Rissington, Gloucestershire. March 9. *Sol.* Brookes, Stow-on-the-Wold.

Carey, John, jun., & Levi Avery, Builders, St. Leonard's-on-Sea, Sussex. Feb. 26. *Sol.* Young, Hastings.

Clemitson, Thomas, Provision Dealer, Hexham, Northumberland. March 15. *Sol.* Swan, Newcastle-upon-Tyne.

Clode, John, Wine Merchant, High-street, New Windsor, Berkshire. March 4. *Sol.* Michael, 7, Old Jewry, London.

Dalton, William James, Builder, Arundel-house, Balham-hill, Surrey. March 6. *Sols.* Howard, Halse, & Trustram, 66, Paternoster-row, London.

Davies, John, Milliner, Great George-street, Liverpool. March 4. *Sol.* Reed, 3, Gresham-street, London.

Foster, Joseph, Top Maker & Farmer, Bradford. March 20. *Sols.* Terry & Watson, Market-street, Bradford.

Holland, Benjamin, Farmer, East Ville, Lincolnshire. March 19. *Sols.* Jebb & Son, Boston.

Hummell, John, Watchmaker. Derby. March 20. *Sol.* Eddowes, Derby.

Mooney, James, Cabinet Maker, Southport, Lancashire. March 14. *Sol.* Jones, 18, Scarisbrick-street, Southport.

Parkin, Edward, File Manufacturer, Canton Works, Sheffield, Yorkshire. March 20. *Sol.* Hudson, Brook-hill, Sheffield.

Price, John, General Shopkeeper, Ystalyfera, Glamorganshire. March 21. *Sol.* Essery, 57, Wind-street, Swansea.

Rackstraw, Philip Bumstead, Smack Owner, 18, Marlborough-place, Old Kent-road, Surrey. March 18. *Sol.* Wates, Gravesend.

Tattersall, John Henry, Cotton Manufacturer, Lyon Mills, Oldham, Lancashire. March 21. *Sols.* Radcliffe & Murray, Oldham.

Bankrupts.

Tuesday, March 26, 1861.

Booth, James, jun., Worsted Manufacturer, Bramley, Yorkshire (*J. & J. Booth*). *Com.* West: April 5, and May 3, at 11; Leeds. *Off. Ass.* Young, *Sols.* Terry & Watson, Bradford, or Bond & Barwick, Leeds. *Pet.* March 16.

CRAVEN, JONATHAN, Stuff Manufacturer, Birstal, Yorkshire. *Com.* West: April 5, and May 3, at 11; Leeds. *Off. Ass.* Young. *Sol.* Darlington, Bradford, or Bond & Barwick, Leeds. *Pet.* March 23.

EVANS, RICHARD, Fuller & Flannel Manufacturer, Toywn, Merionethshire. *Com.* Perry: April 5, and 26, at 11: Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* March 15.

FIELD, RICHARD, sen., Corn Dealer. Chastleton, Oxfordshire, and of Moreton-in-the Marsh, Gloucestershire. *Com.* Hill: April 8, and May 6, at 11; Bristol. *Off. Ass.* Acraman. *Sols.*. Bevan, Girling, & Press, Small-street, Bristol. *Pet.* March 25.

GABRIEL, BENJAMIN WILLMOTT, Cotton Spinner, Portwood and Hempshaw-lane, Stockport, Cheshire. *Com.* Jemmett: April 5, and May 1, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Cooper & Sons, P ll-mall, Manchester. *Pet.* March 21.

GATES, JAMES HARDEN, Builder, Manor-street, Clapham, Surrey. *Com.* Evans: April 5, at 11, and May 9, at 2, Basinghall-street. *Off. Ass.* Johnson. *Sol.* Hewitt, 4, Princes-street, Bank. *Pet.* March 22.

JARVIS, CHARLES KEDMAN, Bookseller & Stationer, Division-street, Sheffield. *Com.* West: April 6, and May 4, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Broomhead, Sheffield. *Pet.* March 20.

KING, JAMES, Cotton Manufacturer, Shawforth, Rochdale, Lancashire. *Com.* Jemmett: April 19, and May 10, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Storer, 89, Fountain-street, Manchester. *Pet.* March 21.

KING, JOHN, Saddler & Harness Maker, Southampton. *Com.* Evans: April 5, at 12; and May 9, at 1.30; Basinghall-street. *Off. Ass.* Bell. *Sol.* Lott, 44, Barliament-street. *Pet.* March 26.

MANLEY, JOHN, Baker & Flour Dealer, Liverpool. *Com.* Perry: April 4, and 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Norris & Son, Union-buildings, 16, North John-street, Liverpool. *Pet.* March 16.

NORMAN, GEORGE, & GEORGE BENNETT NORMAN, Brass Founders, Birmingham (Norman & Son). *Com.* Sanders: April 5, & 26, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Southall & Nelson, Birmingham. *Pet.* March 22.

PARKER, GEORGE EDWARD, Dealer in Foreign Goods, Moorgate-street, London, and Buckingham-street, Strand, Middlesex. *Com.* Holroyd: April 9, at 2.30; and May 9, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Treherne, 17, Gresham-street, London. *Pet.* March 13.

PARTRIDGE, WILLIAM STROUD, Surgeon & Apothecary, Birmingham, Warwickshire. *Com.* Sanders: April 10, and May 9, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* James & Knight, Birmingham; or Mason, Birmingham. *Pet.* March 25.

PHILLIPS, MINSHULL GEORGE, Mercer & Draper, Newcastle-under-Lyme, Staffordshire. *Com.* Sanders: April 10, and May 6, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Litchfield, Newcastle-under-Lyme; or James & Knight, Birmingham. *Pet.* March 21.

PRYDE, GEORGE, Ship Chandler & Ship Store Dealer, Liverpool. *Com.* Perry: April 5 & 26, at 11; Liverpool. *Off. Ass.* Turner. *Sols.* Woodburn & Pemberton, Liverpool. *Pet.* March 22.

RAPHAEL, PHILLIP, Wine & Spirit Merchant & Publican, St. James's Tavern, Duke-street, Aldgate, London, formerly Cigar Dealer & General Merchant, Magdalen-row, Great Prescot-street, Middlesex. *Com.* Fonblanque: April 9, at 12.30; and May 1, at 2; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* March 22.

SNOWDON, ROBERT, Carver & Gilder, Looking Glass & Picture Frame Manufacturer, and Dealer in Prints, Newcastle-upon-Tyne. *Com.* Ellison: April 10, at 12; and May 8, at 11; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Joel, Newcastle-upon-Tyne; or, Hoyle, 102, Leadenhall-street, London. *Pet.* Feb. 16.

STEWART, WILLIAM BARCLAY, Yarn & Cloth Agent, Manchester. *Com.* Jemmett: April 11, and May 2, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester. *Pet.* March 19.

WHITTAKER, JOHN, Victualler & Dealer in Wines & Spirits, Wrexham, Denbighshire. *Com.* Perry: April 5 & 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Liverpool; or, Acton, Wrexham. *Pet.* March 25.

WOOD, THOMAS, Builder & Dealer in Asphalte, Colchester, Essex. *Com.* Holroyd: April 9, at 2.30; and May 9, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* March 23.

BANKRUPTCY ANNULLED.

TUESDAY, March 26, 1861.

ELLISON, THOMAS, Baker & Flour Dealer, Liverpool. March 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 26, 1861.

ANSELL, EDWARD, Draper, 37, South-street, Manchester-square, Middlesex. April 16, at 11; Basinghall-street.—ALLISON, JOSEPH, Corn & Provision Merchant & Cattle Dealer, Stockton-upon-Tees, Durham. April 18, at 12; Newcastle-upon-Tyne.—BAKER, WILLIAM WILCOX, and HENRY SENDALL, Manufacturing Stationers, 67, Old Bailey, London. April 16, at 12; Basinghall-street.—BOTTWELL, SAMUEL, Builder, Dorking Surrey. April 16, at 11.30; Basinghall-street.—COLLS, JAMES, Coal Merchant, Commission & Insurance Agent, Thrapston and Denford, Northamptonshire. April 17, at 11.30; Basinghall-street.—ELLIOTT, WILLIAM, Builder, Church-street, Chelsea, and 5, Oxford-terrace, King's-road, Chelsea, Middlesex. April 16, at 11.30; Basinghall-street.—HARRIS, JOHN, Envelope Manufacturer, 11, College-hill, London. April 19, at 11; Basinghall-street.—HICKEN, GEORGE, Lace Manufacturer, Nottingham. April 18, at 11; Nottingham.—HOLLIN, DAVID, Boot & Shoe Manufacturer, Leicester. April 23, at 11; Nottingham.—HULLAH, JOHN, Bookseller, St. Martin's-hall, and 5, Langham-street, Portland-place, Middlesex. April 16, at 11; Basinghall-street.—HUNT, JACOB, Cotton Manufacturer, Stockport. April 18, at 12; Manchester.—MARRIOTT DAVID, Draper, 118, Oxford-street, Middlesex. April 19, at 11; Basinghall-street.—NASH, EDWARD RICHARD, Wine Merchant, 25, College-hill, London. April 16, at 12; Basinghall-street.—PICKFORD, WILLIAM, Merchant, 157, Fenchurch-street, London (William Pickford & Co.) April 16, at 11.30; Basinghall-street.—READ, WILLIAM, Builder, 28, Dorset-street, Portman-square, Middlesex. April 17, at 12.30; Basinghall-street.—RUTHERFORD, THOMAS, Merchant, formerly of Moradabad, Presidency of Bengal, East Indies, and now of Agnes-place, Waterloo-road, Surrey. April 18, at 11; Basinghall-street.—SHALES, EDWARD THOMAS, Linen Draper, Brighton. April 19, at 11; Basinghall-street.—STANNARD, JAMES, Trader, Newport, Isle of Wight. April 17, at 1.30; Basinghall-street

LAW STUDENTS' DEBATING SOCIETY,
AT THE LAW INSTITUTION, CHANCERY LANE.

Members are requested to supply the Committee with Questions.

QUESTIONS FOR DISCUSSION.

For Tuesday, 9th April, 1861. President—Mr. MATTHEWS.

QUARTERLY MEETING.

The Treasurer will lay before the Meeting a statement of unpaid fines and subscriptions.

The Secretary's Report of the proceedings of the Society during the past Quarter will be read.

Members who have been absent from six successive Meetings without written notice, must show cause at this Meeting, why their names should not be erased from the list of Members.

Mr. PEACHEY will move—That Rule XIII. be amended by adding the words:—"That in the event of the President appointed for the evening not attending in person, or by deputy, the senior member of the Committee present, or in case no member of the Committee other than the Secretary be present, then the senior member of the Society in attendance shall act as President."

Mr. ANDERSON will move—"That it would be beneficial to the Members of this Society, if further facilities were given towards the acquirement of a more perfect knowledge of the Law and Practice of Evidence. That for this purpose the Society do on one Tuesday in each Term, hold a sitting for the purpose of trying issues in fact, and that a Committee be appointed to draw up the rules to be observed at such sittings."

Mr. MELVILL GREEN will move—"That the Secretary do not act as deputy under Rule VI. clause 1, unless he have consented so to do eight days at least prior to his so acting as deputy."

Mr. JACKSON will move—"That the votes on election of Members be taken by show of hands instead of by Ballot."

269.—On the sale of goods with all faults; is a vendor guilty of fraud, in case he does not disclose to the purchaser some defect which could not be discovered by a diligent examination?

Mellish *v.* Motteaux, Peake, 157; Baglehole *v.* Walters, 3 Campb. 155.

Affirmative—Mr. J. W. SHARPE and Mr. A. H. MILLER.
Negative—Mr. HEWITT and Mr. WILLAUME.

For Tuesday, 16th April, 1861. President—Mr. WINGATE.

270.—Is a bona fide purchaser of debentures of a public company, bound to ascertain whether the debentures have been issued in all respects in the manner prescribed by the deed of settlement?

Agar and Others *v.* The Athenæum Life Assurance Society, 6 W. R. 277 C. P.; The Athenæum Life Assurance Society *v.* Pooley, 7 W. R. 167, L. J.

Affirmative—Mr. LAWRANCE and Mr. WEST.
Negative—Mr. G. LINDO and Mr. HARBIN.

For Tuesday, 23rd April, 1861. President—Mr. WINCKWORTH.

XCVI.—Ought the Government to have introduced a Reform Bill during the present session?

Mr. DOWSE is appointed to open the debate, and Messrs. ALDRIDGE, HANDSON, and BUSBY to speak on the question.

For Tuesday, 30th April, 1861. President—Mr. GREEN.

271.—A. holding under a lease in which there is the usual covenant, not to assign without license, will a bequest by him of his interest in the property without license operate as a forfeiture?

Fox *v.* Swan, Styles 483; Lloyd *v.* Crisp, 5 Taunt. 249; Doe *v.* EVANS, 9 Ad. & Ell. 274.

Affirmative—Mr. RUSSELL and Mr. W. PHILLIPS.
Negative—Mr. ANDERSON and Mr. BROWN.

The chair will be taken at Seven o'clock.

GEO. L. WINGATE, Jun., Secretary,
9, Copthall-court, E.C.

PURSUANT to an Order of the High Court of

Chancery, made in the Matter of the Estate of Francis Stack Murphy, late of No. 33, Lincoln's-inn-fields, and of Earls-court gardens, Brompton, both in the County of Middlesex, Esq., Serjeant-at-Law, deceased, and in a cause between Esther Greenwood, Plaintiff, and Samuel Sturgis, Defendant, the creditors of the above-named Francis Stack Murphy, who died in or about the month of June, 1860, are by their solicitors, on or before the 15th day of April, 1861, to come in and prove their debts at the chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 23rd day of April, 1861, at 12 o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.—Dated this 13th day of March, 1861.

GEO. HUME, Chief Clerk.

WALKER & HARRISON,
5, Southampton-street, Bloomsbury, Middlesex,
Plaintiff's Solicitors.